A VINDICATION OF THE Parliament of *England*,

In answer to a

BOOK,

WRITTEN

By *William Molyneux* of *Dublin*, Esq.

INTITULED,

The Case of Irelands *being bound by Acts of Parliament in* England, *stated.*

By JOHN CARY Merchant in *Bristol.*

Nolumus Leges Anglicanas mutari.

The Second Edition.

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TO THE
RIGHT HONOURABLE
AND
HONOURABLE,
THE
Lords Spiritual and Temporal,
AND
Commons in Parliament
ASSEMBLED.

May it please your Honours,

THE *Esteem I have always had for your most Excellent Constitution, hath*

hath made me undertake the Answering Mr. Molyneux *his Book, whose Design was to clip the Wings of your Power, by setting* Ireland *free from your Jurisdiction. I have endeavoured to undeceive his Readers, many of whom I found drawn aside by his specious Pretences for Liberty and Property, who would not otherwise have joyned with him against your Authority over that Kingdom: I hope nothing I have offered will look like pleading for Arbitrary Power, which is an Usurpation over anothers Right, without a Just and Lawful Pretence,*

tence, I humbly presume to lay it at your Honourable Feet, because it is a Vindication *of that undoubted Legislative Power which you have Exercised over* Ireland, *ever since it became Subject to the* Imperial Crown of England. *I am sure no Attempt can be made to lessen your* Parliamentary Authority, *which will not at the same time tend to Eclipse the Glory of the* Monarchy; *and therefore he who Vindicates the* Just Rights *of the One, adds to the* Lustre *of the Other. If what I have done shall be honoured with*

with your Approbation, *it will abundantly Recompence the Pains I have taken.*

I am,

With all dutiful respect,

Right Honourable

and Honourable,

Your Honours,

most obedient Servant,

JOHN CARY.

To the Right Honourable,

John, Lord *Somers*,

Baron of *EVESHAM*,

And

Lord High Chancellor of *ENGLAND*.

I Humbly make bold to Present Your Lordship with this little Tract, being an Answer to a Book, Entituled, The Case of *Ireland's* being bound by Acts of Parliament in *England* stated, *Written by* William Molyneux, *of* Dublin, *Esquire.*

Eſquire. The Reaſon which induced me to intermeddle in a thing ſo much out of my Profeſſion, as Matters of Law are, was, that I had formerly, amongſt other things, diſcours'd on the State of Ireland, *in my* Eſſay on Trade, *and offer'd it as my Opinion, That except that Kingdom was bound up more ſtrictly by Laws made in* England, *it would ſoon deſtroy our* Woollen Manufactory *here: Wherefore I propoſed to reduce it (with reſpect to its Trade) to the ſtate of our other* Plantations *and* Settlements Abroad, *which I ſuppoſed the only Means we had left to help our ſelves, and to render*

render Ireland *more useful to this Kingdom. This I humbly presented to the* King's Most Excellent Majesty, *and also to the* Honourable the Commons of *England* then sitting in Parliament; *which I presumed to do, because I thought I had Faithfully and Impartially discoursed on the Subjects I undertook, at least I knew I had endeavoured to do so; and supposing that Book might give some beginning to the* Bill for Encouraging the Woollen Manufactures in *England*, and restraining the Exportation of the Woollen Manufactures from *Ireland*,

I found my self obliged to consider the Arguments *which might be brought* against *Ireland's* being bound by Statute Laws made in *England. What Success that Bill will have, I know not, but I very much fear, if something of that nature be not done, we shall soon loose that part of our* Woollen Manufacture *now left; which will tend to the Ruining our Poor, the Lessening the Value of the Lands of* England, *and depriving us of a great Number of People, who will be necessitated to leave this Kingdom, and go over to* Ireland, *to follow their Employments there; and*

all this without rendring the Gentlemen of **Ireland** *any ſort of Advantage, that may not be made up to them another way.*

This, I humbly, conceive may be done, and **Ireland** *encouraged on another Manufacture, no way Detrimental to the Intereſt of* **England**, *and carried on by ſuch Methods, as may become profitable to both Kingdoms: Till this be done, I very much fear, both will be uneaſie; I humbly beg your Lordſhip's Pardon for my Preſumption; and that you will be pleaſed to accept what I here offer, as from a Perſon who truly Honours your Lordſhip; and ſo much the more,*

be-

because you have always Asserted the Rights and Powers of Parliaments. I am with all Dutiful respect,

Right Honourable,

Your Lordship's most Humble

and most Obedient Servant,

JOHN CARY.

A VINDICATION *of the Parliament of* England's *Power to Bind* Ireland *by their Statute-Laws, in Answer to a Book, written by* William Molyneux, *of* Dublin, *Esq.*

SIR,

YOUR Book Entituled, *The Case of* Ireland's *being Bound by Acts of Parliament in* England, *Stated*, I have seen, and read over with some thought; and because I cannot agree with you in your Opinion, I design this as an Answer, to shew you the reason why I differ from you.

But before I proceed farther, I shall premise and grant with you, That *Ireland* hath long had a Parliament; and I am apt to think that your mistake arises from this, that you Build too much on the Name, not considering the Power that Parliament Le-

gally hath: For this is no more then our Foreign Plantations, and great Corporations in *England* have; in the former, the Governours repreſent the King, the great Men or Council the Lords, and the Commons are repreſented by ſuch as they elect, and ſend from their ſeveral Diſtricts: In the latter, theſe three Eſtates are likewiſe Repreſented by the Mayor, Aldermen, and Common Council of the ſeveral Cities or Corporations; theſe make Laws for their better Order and Government, yet all ſubſervient to the great Council or Parliament of this Nation; from whoſe Juriſdiction thoſe Priviledges do not in the leaſt ſet them free, but they pay a due Obedience to their Laws, eſpecially thoſe made with an Intention to bind them.

The Diſpute now between you and me is, *Whither* Ireland *can be Bound by our Engliſh Acts of Parliament?* This you deny, and I affirm; I will therefore proceed to enquire into your Arguments.

And becauſe I intend as much Brevity as poſſible I can, I will paſs by all that in your Book, which I apprehend doth not concern the Matter in Diſpute. Your Stile is good, and your Language like a Gentleman; but with this fault, that under that, you ſometimes endeavour to cloud your Deſign, and repreſent it to the Reader quite

quite different from your own Intention.

Page 4. You tell us, *That the Subject of your present Disquisition shall be, how far the Parliament of* England *may think it reasonable to intermeddle with the Affairs of* Ireland, *and bind you up by Laws made in their House.* This you might have informed your self from our Statute-Books, which begin with the Laws of *Henry* III. about Five hundred years since; and you will find, that in that King's Reign, and ever since, in the Reigns of his Successors, the Parliament of *England* have thought it reasonable to bind up *Ireland* by Laws made here, so often as they saw there was occasion; and no doubt they did the same, or at least had Power so to do, in the Reigns of *Henry* II. *Richard* I. and King *John*, who all preceded King *Henry* III. and Reigned after *Ireland* came under the English Government. Now, were that all the Question in Dispute, I could soon answer you, that what the Parliaments of *England* did Five hundred years past, and have done ever since, the present Parliaments think reasonable to suppose themselves impowered to do, because they make Precedents of former times their Rule and Government; so that 'tis not the Will, but the Power of the Parliament of *England* in this Matter,

that you Diſpute; and this appears more plainly in your next Paragraph, where you call it *a pretended Right, founded only on the imaginary Title of Conqueſt, or Purchaſe, or on Precedents, and Matters of Record.*

I do not think it very material for me to conſider, on which of theſe *imaginary Titles*, as you call them, they *pretend* to this Power, the Queſtion will not turn on that; 'tis enough, if I aſſert and prove, that the Parliaments of *England* did exerciſe this Power, ever ſince *Ireland* hath been under the *Engliſh* Government; and I think it will lye on you to prove, that either they did not, and then to ſhow when they firſt Uſurp'd it, or that it was an Uſurpation from the Beginning; therefore your firſt, ſecond, and third general Heads, ſeeming to be of no great Moment in this Diſpute, I ſhall ſay the leſs to them; your fourth, fifth, and ſixth, ſeem more to relate to the matter before us.

Under the firſt of theſe, ſpeaking of *Henry* II. you ſay, *Page* 11, and 12. *That all the Archbiſhops, Biſhops, and Abbots of* Ireland, *came to the King of* England, *and received him for King and Lord of* Ireland, *ſwearing Fealty to him and his Heirs for ever; the Kings alſo, and Princes of* Ireland, *did in like manner receive* Henry *King of* England *for Lord of* Ireland, *and became*

became his Men, and did him Homage, and swore Fealty to him and his Heirs against all Men, and he received Letters from them, with their Seals Pendent, in manner of Charters, confirming the Kingdom of Ireland *to him and his Heirs; and testifying, That they in* Ireland *had ordained him and his Heirs to be their King and Lord of* Ireland *for ever.* This was *Anno* 1173. Now, either this Resignation they made to him was Absolute or Limited, if the latter, I conceive it must be exprest in those Charters you mention, and it had very much concerned your Argument to have got them perused, (if any there are) and to have shewed, how far the Parliaments of *England* have broke through those Original Compacts.

And herein, I think I have granted as much as you desire in your second Head; it seems to me all one as to the present Case, whether *Henry* II. be considered, *Page* 13. as *Conquestor Hiberniæ*, or as *Dominus Hiberniæ*, I shall draw no Arguments from either, a Submission you have acknowledged. You say, *Page* 15. *That all came in peaceably, and had large Concessions made them, of the like Laws and Liberties with the People of* England; here again it would have been necessary for you to have produced some of those Concessions, that you might have made it appear to the Parlia-

ment of *England*, what they were; not that I do make any Demur to the freedom of the People of *Ireland*, I take them to be ſo, both in their Lives, Liberties, and Properties, as much, and as far, as any People in *England*; and I take them to be the more ſo, becauſe they are ſubject to an Engliſh Parliament, and ſo have all the Priviledges of an Engliſh People, which the Subjects of *Scotland* have not; I take every Subject of the Kingdom of *England* to be Born Free, and to carry this Charter of his Freedom about him, let him remove where he will, within the Dominions of *England*; and that he cannot be diveſted thereof, but by the Laws of this Land, made by his Repreſentatives in Parliament, in the Election whereof, he either hath, or may have a Voice, if he qualifies himſelf as thoſe Laws doe direct. This I willingly grant, becauſe I would not be thought to argue againſt the Liberty and Property of Engliſh Men, wherever they are ſettled: But ſtill, I think it had been neceſſary for you to have produced a Tranſcript of thoſe Conceſſions; for either they were made, or they were not; if they were, you live in a Kingdom, whoſe Intereſt it was to preſerve them, and they muſt give great light into the preſent Controverſy; if none appears, how do you know what

thoſe

thoſe Conceſſions were? I inſiſt the more on this, becauſe you ſay, they had Conceſſions, of the like Laws, and Liberties, with the People of *England*; now whether by this you mean, the ſame Laws and Liberties, or ſuch as were very like them, I am in the dark; if the latter, they muſt be either more, or leſs; they cannot be more, for I take the People of *England* to be as free as any People in the Univerſe; if they were leſs, then I grant you more then you deſire; for I take the People of *Ireland*, to ſtand on the ſame footing with the People of *England*, and yet I am afraid you are not content; therefore I ſhould gladly ſee a Tranſcript of thoſe Conceſſions, becauſe I am apt to think we differ in this; I ſay they were to be ſubject to all the Laws of *England* in general, you exempt them from the Statute-Laws; but I expect to find you fuller on this, in your Fourth Particular.

As to your third Particular, *What Title Conqueſt gives by the Laws of Nature and Reaſon*, Page 18. I ſhall ſay little to it, ſuppoſing it hath no relation to this Controverſy; for I do grant, that the People of *Ireland* are a free People, and that they are, as you ſay, *Page* 20. *The Progeny of the Engliſh and Britains, that from time to time went over into that Kingdom.* I add, who

before they went hence were ſubject to the Statute Laws of *England*; and then the Queſtion will be, what were thoſe Conceſſions that diſcharged them, from rendring Obedience to the Legiſlative Power of this Kingdom.

This brings me to your Fourth Particular, pag. 28. *What Conceſſions and Grants have been from time to time made to the People of* Ireland? But the latter part of that Particular, pag. 5. *By what Degrees the Engliſh Form of Government, and the Engliſh Statute Laws came to be received in* Ireland; which you ſay, *was wholly owing to the Conſent of the People and Parliament of* Ireland, I deny, and you are to prove; and I conceive, this cannot better be done, than by producing ſome Conceſſions or Grants, whereby they are diſcharged by the Legiſlative Power of *England*, from the Obedience they owed, and always paid, to the Statute Laws of this Kingdom, before they removed into *Ireland*.

And now we are arrived at the true State of the Controverſy; you ſuppoſe, that the People of *Ireland* cannot pay Obedience to the Statute Laws of this Kingdom, except they ſubject themſelves to a State of Bondage; and I believe they ought to do it, eſpecially, when thoſe Laws are deſigned to bind them, and that this conſiſts with

with the State of Liberty and Freedom; I will therefore examin what you ſay on this Fourth Particular.

The Firſt Precedent you produce, is only an Account, that *Matth. Paris*, Hiſtoriographer to King *Henry* III. gives, (who, by the way, pleaſe to note, wrote above Sixty Years after King *Henry* II. took Poſſeſſion of *Ireland*) *That* Henry *the Second, a little before he left* Ireland, *in a Publick Aſſembly and Council of the Iriſh at* Liſmore, *did cauſe the Iriſh to receive, and ſwear to be governed by the Laws of* England, pag. 28. I deſire to know, whether the Statute Laws were then part of the Laws of *England?* If they were, (which I ſuppoſe you will not deny, for you confeſs Parliaments to be before that time, pag. 39.) then pleaſe to inform me, Whether the People of *Ireland* conſented to the making thoſe Laws? If not, by your own Argument, here is the Slavery, which you ſo much fear and exclaim againſt through your whole Book, introduced on them in the original Contract, for he ſaith, that the King *cauſed them to receive, and ſwear to be governed by the Laws of* England.

But in your next Precedent, you ſeem to qualify the Severity of that King's Orders, by what Sir *Edward Cook* ſays, *viz. That he ſettled the Laws of* England *in* Ireland, *by*

the

the voluntary Acceptance and Allowance of the Nobility and Clergy, pag. 29. *And he did likewise allow them the Freedom of holding Parliaments in* Ireland, *as a ſeparate and diſtinct Kingdom from* England. Pleaſe to note, that Sir *Edward Cook* wrote about Five Hundred Years after King *Henry* II. went into *Ireland*, and about Four Hundred and Fifty after *Matt. Paris* wrote, and you would now bring his Opinion againſt the conſtant Practice of the Parliaments of *England*, for Five Hundred Years; Beſides you ſay, p. 80, and 116. *That* Sir Edward Cooke *was of Opinion, that* Ireland *was to be governed by the Statute Laws made in* England, *where it was ſpecially named therein*; and in the laſt of theſe Pages you *exclaim againſt him for this his Opinion.* I ſhall not examine your Quotations, whether they agree with the Originals or no, my Profeſſion being not the Law, I am not furniſh'd with thoſe Books, nor do I think it much to the purpoſe what Sir *Edward Cook* ſaith in this matter; yet I muſt take notice, that you pen the Words, *Holding of Parliaments in* Ireland, in a different Character from the following Sentence, *As a ſeparate and diſtinct Kingdom from* England, which gives me reaſon to ſuppoſe, the laſt was added by your ſelf, as your Paraphraſe on what Sir *Edward Cook* ſaid; I would endea-

your

vour to find out the Original, did the Decision of this Controversy depend upon Sir *Edward Cook's* Opinion.

Sir *Edward Cook*, in this Case, should have given a Transcript of that Grant, and you should have transcribed it, as you do afterwards, the *Modus* how to hold their *Parliaments*, pag. 29. and yet then, there would have arose this Question, Whether the Kings of *England* can legally exempt their English and British Subjects (for so you call the People of *Ireland*, pag. 20.) from their Obedience to the Legislative Power of this Kingdom, by any Charters or Grants whatsoever; I am sure I never heard of any such Precedent, but on the contrary, it is charged as a Crime on the late King *James*, in an Act made *Primo G. & M. Cap.* 2. *That he assumed and exercised a Power of dispencing with, and suspending of Laws, and the Execution of Laws, without Consent of Parliament.*

But here I see you will raise this Objection against my manner of expressing my self, and say, That when Grants are made by a King to any Country that doth submit it self to his Authority, all Persons who shall afterwards settle themselves therein, though before subject to other Laws, are now Locally to be governed by that Form of Government which he Establish'd in that Country;

try; therefore the People of *England*, when they ſetled *Ireland*, were to be governed by the Laws granted to *Ireland*; to this I anſwer, That the Conſtitution of the Government to which this Submiſſion is made, ought ſpecially to be conſidered; and then there will ariſe this 2d Queſtion, Whether a Submiſſion made to the K. of *England*, doth not include a Submiſſion to the Legiſlative Authority of *England*? I am apt to think it does, and I believe it will appear by what follows in this Diſcourſe, that the Parliaments of *England* have ever been of the ſame Opinion; But be this how it will, *Ireland* you allow ſubmitted it ſelf on the Terms of being governed by the Laws of *England*, ſo this Objection ſeems rather to be formal, than material, as to the Subject we are upon.

This *Modus*, you ſay, pag. 30. *For the moſt part agrees with the* Modus tenendi Parl' *in* England, which is a looſe Argument; for you know, that one Word in a Grant, may alter the whole Sence, and we both agree, that the Parliament of *Ireland* may make Laws, but the Queſtion is, whether *Ireland* is not bound by the Statute Laws of *England*, as all our Plantations are?

Yet after all, you confeſs, pag. 30. *That this very* Modus, *though ſtrenuouſly aſſerted by Sir* Edward Cook, *is diſputed by Mr.* Selden *and Mr.* Pryn, *two learned Antiquaries*,

ries, will you then bring it as an Argument againſt the conſtant Practice of the Parliament of *England*, for Five Hundred Years paſt? But grant it had not been diſputed at all, I do not ſee what it will make for your purpoſe.

One Reaſon, you ſay, *why Mr.* Pryn *doubts this* Modus *to be ſent over by King* Henry *the Second, is, becauſe there were no Sheriffs eſtabliſhed in* Ireland *in* Henry *the Second's Time*, pag. 31. *Yet the Word* Vicecomes *is in it*; all you anſwer is, pag. 32. *That perhaps the King intended to conſtitute Sheriffs*; and yet, *the firſt you find eſtabliſh'd there, were in the Days of King* John, which was about Fifty Years after; and you ſay, pag. 30. That *where this Form was altered from the* Modus tenendi Parl' *in* England, *'tis only to fit it the better for the Kingdom of* Ireland; if ſo, 'tis ſtrange the Word *Vice-comes* had not been left out, ſeeing there was then no ſuch Officer in *Ireland*.

But pag. 36. you are pleaſed to allow, that there is reaſon to doubt the certainty of this Record, unleſs we will depend on the Credit of the Biſhop of *Meath*; therefore you return to your former Argument, *viz.* that there were Parliaments early in the Kingdom of *Ireland*; which may be probable; but whether the Parliament of *England* then loſt their Power there, is the thing

thing I diſpute, and you do not prove. You ſay, pag. 36, 37. *That* Henry *the Second held a General Council of the Clergy at* Caſhall, *wherein he rectifyed many Abuſes in the Church, and eſtabliſhed ſundry Eccleſiaſtical Laws, agreeable to thoſe in the Church of* England; this in *England* we call a Convocation, not a Parliament.

You ſay, pag. 37. *Pari deſiderio Regis Imperio ſe ſubjiciunt; omnibus igitur hoc modo conſummatis, in Conſilio habito apud Liſmore Leges Anglicæ ab omnibus ſunt gratantur receptæ, & juratoriâ cautione præſtitâ confirmatæ*, ſaith *Matth. Paris*; from hence you infer, pag. 38. *That they ſhould enjoy the like Liberties and Immunities, and be governed by the ſame wild Laws, both Civil and Eccleſiaſtical, as the People of* England; and I ſee no Reaſon to the contrary; all we differ in is, whether they were thereby diſcharged from being ſubject to the Statute Laws made in *England*; this ſeems contrary to the Judgment of the Parliament in *Henry* the Third's Days, to whom *Matth. Paris* was Hiſtoriographer; elſe, certainly they would not have made Laws to bind *Ireland*, as I ſhall by and by ſhow they did.

You proceed pag. 38. thus, *From all which it is manifeſt, that there were no Laws impoſed upon the People of* Ireland, *by any Authority*

Authority of the Parliament of England; *nor any Laws introduced into that Kingdom by King* Henry *the Second, but by the Conſent and Allowance of the People of* Ireland; and the Reaſon you give for it is this; *For both the Civil and Eccleſiaſtical State were ſettled there, Regia ſublimatis authoritate; Solely by the King's Authority, and their own good Wills, as the Iriſh Statute* 11 Eliz. *Cap.* 1. *expreſſes it.* What the Iriſh Statutes expreſs, I think hath no great Weight in this Debate; the Queſtion is, by what Power the People of *Ireland* (for ſo I will now call them) threw off that Subjection, they once owed to the Legiſlative Power of *England?* If they think their bare Denial is enough, to warrant them free from ſuch a Subjection, the People of *England* may expect the like on the ſame Argument; if becauſe they are not preſent at our Elections, I will anſwer that in the following Diſcourſe.

We proceed now to pag. 39. *To ſee to what farther Degrees the Government of* Ireland *grew up conformable to that of* England, which are your own Words; you ſay, that *about the twenty third year of* Henry II. *(which was within five years after his return from* Ireland*) he created his younger Son* John *King of* Ireland, *at a Parliament held at* Oxford; and from this you would infer,

infer, Page 40. *That by this Donation of the Kingdom of* Ireland *to King* John, Ireland *was most eminently set apart again, as a separate and distinct Kingdom by it self from the Kingdom of* England; but you do not set forth that Grant, and our Statute-Books are not so old; this had been necessary for many reasons; you say, *Page* 40. That *by this Donation King* John *made divers Grants and Charters to his Subjects of* Ireland; does this alone shew a Regal Authority? and might it not have been done by a Lord-Deputy, still subject to the Crown of *England?* Pray let me ask you, was he at his return to *England* (which you say was a little after his first going over) received here by his Father as a Brother-King? and did he take Precedence of his elder Brother *Richard?* 'Tis much this young King had not punished his Subjects of *Ireland*, *for being angry at his deriding their long Beards*, *at which*, you say, *they took such Offence*, *that they departed in much Discontent*; I say 'tis much he had not punished their Undutifulness, but rather chose to come away in a Pet, and thereby to abdicate his new Kingdom; for you do not shew, that he left the Administration of the Government with any one else: All that can be said in his Defence is, that he was young, *about Twelve Years old*, pag. 39

and perhaps the obſtinate Humour, which the Barons of *England* afterwards found in him, might grow up with him, and become an Infirmity of Age; and during King *John*'s being in *England*, did the Kingdom of *Ireland* govern its ſelf? For if his Father, King *Henry* the Second, ſent over any other to ſucceed him, all your Argument is loſt.

But after all, I find his granting Charters is not of ſuch moment, as to prove him a King; for this he did to the City of *Briſtol*, whilſt he was Earl of *Moreton*, (which I believe was long after the time you mention) and I find by the exemplification of that Charter, that his Son, King *Henry* the Third, in his *Inſpeximus*, confirms it, as granted by his Father, King *John*, when he was Earl of *Moreton*, without mentioning that he was then alſo King of *Ireland*; and Princes do not uſe to abate any thing of their Titles, eſpecially when they are of ſo great Importance as this. No body doth believe, that King *John*, whilſt Earl of *Moreton*, had ſuch a Royal Authority in *Briſtol*, as to diſcharge it from an obediential Subjection to the Legiſlative Power of *England*.

The Statute *Primo G. & M. Cap.* 9. *ſſ.* 2. ſaith, Ireland *is annexed and united to the Imperial Crown of* England, *as well by the*

Laws of this Kingdom, as those of Ireland; and I am sure, there is a great deal of difference between being part of the Imperial Crown of *England*, as *Wales* is, and a separate Kingdom, as *Scotland* is; I find likewise that *Henry* the Third never wrote himself more than Lord of *Ireland*, and 'tis strange, if *Ireland* was established a separate Kingdom in *John* Earl of *Moreton*, and his Heirs, that the Title had not been continued in his Son; and how comes it to pass, that we have ever since been at the Charge of supporting that Kingdom with our Treasure, without keeping a separate Account of our Expences laid out on it, which doubtless we should have done, had we thought it a separate Kingdom?

But to proceed; on searching Sir *Richard Baker*'s Chronicle, I cannot find that he takes any Notice of King *Henry* IId's sending over his Son *John* about the Twenty Third Year of his Reign, as you say Page 39. which 'tis much he should omit, seeing it was on so memorable an Occasion as his being made King of a separate Kingdom by his Father, in a Parliament at *Oxford*; but he saith, *that in the Thirty First Year of his Reign, he sent his Son* John *over to* Ireland, *to be Governour there*; and afterwards, in the Reign of *Richard* I. (Son to *Henry* II. and

and Brother to this *John*) he, ſpeaking of the great Kindneſſes ſhewed by the ſaid King *Richard* I. to his Brother *John*, hath theſe Words, *To whom he made appear, how much the Bounty of a Brother was better than the Hardneſſes of a Father*; and afterwards, he names the ſeveral Earldoms which he conferred on him, *viz. Cornwall*, *Dorſet*, *Somerſet*, *Nottingham*, *Darby*, and *Lancaſter*; then treating of Affairs in *England*, during the King's Abſence on his Voyage to the *Holy Land*, ſaith, *he left* William Longſhamp, *Biſhop of* Ely, *in chief Place of Authority, at which his Brother was diſguſted*, whom he calls there, *Duke* John; and in another Place he ſays, that *the King after his Return from the* Holy Land, *took from him all the great Poſſeſſions he had given him, and afterwards the ſaid* John *ſubmitted himſelf to the King his Brother.*

Now, does this agree with the Honour and Dignity of a King, who had a ſeparate Kingdom? or were the Grants of thoſe ſeveral Earldoms from his Brother, which you ſee were liable to be taken away again at the King's Pleaſure, to be accounted a greater Largeſs, than the Bounty of his Father, if he had made him King of a ſeparate Kingdom, and ſetled it in Parliament, as you affirm? Beſides, if any ſuch thing was done by *Henry* II. in the Twenty Third

Year of his Reign, it appears, if *Baker* be in the right, that that Grant was recalled, for he ſaith plainly, that *he ſent him over in his One and Thirtieth Year, to be Governor of* Ireland. *How* indeed ſaith, *to be Lord of* Ireland; but neither of them mention any thing of what was done in the Parliament at *Oxford*. Well, ſuppoſe it to be, *Dominus Hiberniæ*, on which Word you ſeem to build ſo much, pag. 40, 41. Is this Title any thing greater than *Lord Lieutenant*, or *Lord Juſtice*, which hath, for ought I can perceive, been uſed ever ſince? Does a Title granted in a Patent from the King, diſcharge any Perſons, or the Places they govern, from Obedience to the Legiſlative Authority of *England?* If it doth, I ſhould think That granted by *Henry* IV. to Sir *John Talbot* would go a great way in it, which you give us, pag. 33. in theſe Words, *Dilecti & fidelis noſtri Johannis Talbot, de Hallom ſhire Chevaler, locum noſtrum tenentis terræ noſtræ Hiberniæ*, which you interpret, pag. 32. *Lord Lieutenant of* Ireland, and it is not to be doubted, but *Henry* IV. thought he had not diveſted himſelf of his Regal Authority in *Ireland* thereby; for though we do not find any Statutes made in his Reign to bind that Kingdom, yet we do in the Reign of his Son *Henry* V. and thoſe Kings who ſucceed-

ed

ed him; if then, *John*, Earl of *Moreton*, was never created King of *Ireland*, nor That made a ſeparate Kingdom in the Parliament at *Oxon* (as you alledge, but do not prove) then all your Arguments drawn thence, pag. 41, 42, 43, 44. beginning with this Paragraph, *Let us then ſuppoſe that*, &c. fall to the Ground.

As for its *being annext to the Imperial Crown of* England *by ſeveral Acts of Parliament both here and there*, which you mention pag. 43. I do agree to the Reaſon you give for it, pag. 44. as one, *viz. That it ſhould not be alienated or ſeparated from the Kings of* England; But I hope you will not draw any Inference from this, that *Ireland* therefore is not ſubject to our Legiſlative Power; it ſeems to me a greater Argument that it is, and thoſe Acts made in *Ireland*, look like an Acknowledgement of it, ſeeing the Members there, knew the Opinion of the Parliament of *England*, by their continued Practice of making Laws to bind it.

I am the longer on this Subject of *Henry* the Seconds making his Son *John* King of *Ireland*, and That a ſeparate Kingdom, becauſe I find you inſiſt upon it, as a thing unqueſtionable, through your whole Book, and I am willing to clear it here, to prevent often Repetitions.

I will proceed with you to King *John*'s going over into *Ireland*, after he became King of *England*, pag. 44. for which you quote *Mat. Paris*, who ſaith, *Cum veniſſet ad Dublinenſem civitatem occurrerunt ei ibidem pluſquam* 20 *Regul' illius Regionis, qui omnes timore maximo præteriti, Homagium ei & fidelitatem fecerunt. Fecit quoque Rex ibidem, conſtruere Leges & Conſuetudines Anglicanas, ponens Vice cometes, aliaſque miniſtros, qui populum Regni illius juxta Leges Anglicanas judicarent.* This you know was long after that *Amicable Conceſſion*, or *Original Compact*, you mention, pag. 37. to be made between *Henry* II. and the People of *Ireland*, and long after the ſame King *John* was made King of *Ireland* by his Father; and yet your Author ſays, *fecit quoque Rex ibidem, &c.* which I Engliſh thus, He appointed Officers to govern them by the Engliſh Laws, wherein he cauſed them to be inſtructed; So that here is a ſecond original Compact, if you will call it ſo, *viz.* That they muſt be govern'd by the Engliſh Laws and Cuſtoms; and now I think we are agreed the Matter, *viz.* That they were to be govern'd by the Engliſh Laws.

Let us ſee then where we differ; for I am very willing to part Friends with a Gentleman of your Parts, your Fault is, that

that you would willingly make more from things then was ever intended by them.

Page 45. You proceed to ſpeak of a *Magna Charta*, *granted by* Henry III. *to* Ireland, *dated at* Briſtol *the* 12*th of* November, *in the firſt year of his Reign*, *which*, you ſay, *is agreeable to the* Magna Charta *granted to* England; I have not ſeen it, nor have you ſet it forth, ſo I can ſay nothing to its Contents; I will only ask you whither it doth diſcharge *Ireland* from being ſubject to the Legiſlative Power of *England*, which is the matter in hand; and if it does, whether it was confirmed by Parliament; I will not differ with you whoſe Seals were put to it, whether the King's own, or the venerable Perſons you there mention; if it doth not diſcharge from Obedience to Laws made by the Parliament of *England*, and was not confirmed by them, I examine no farther.

And I do not remember I ever heard of a Parliament held at *Briſtol*, nor doth this ſeem to be one, becauſe you ſay, *it was by advice of his Council of* England, *whoſe Names are particularly recited*, which I therefore take to be the Privy Council, in oppoſition to the great Council or Parliament of *England*; and the rather, becauſe I find this was the uſual Form of granting Char-

ters in thoſe days: I ſhall only Note, that *this* (you ſay) *was eight years older then that which he granted to* England.

Page 46. You ſet forth another Charter, ſent them by the ſaid King in *February* following, the Subſtance whereof you give us *Page* 47. *Volumus quod in Signum fidelitatis veſtræ tam præclaræ tam inſignis libertatibus Regno noſtro Angliæ à Patre noſtro & nobis conceſſis de gratia noſtra & dono in Regno noſtro Hiberniæ Gaudiatis vos & veſtri Hæredes in Perpetuum.* This was made by advice of his Common Council, and Sealed with their Seals, as it follows in the ſame Page; *Quas diſtincte in Scriptum reductas de communi Concilio omnium fidelium noſtrorum vobis mittimus, ſignatas ſigillis Domini noſtri, G. Apoſtolicæ ſedis Legati, & fidelis noſtri Com. W. Mareſc. Rectoris noſtri & Regni noſtri, quia ſigillum nondum habuimus, eaſdem proceſſu temporis de majori Concilio proprio ſigillo ſignaturi.*

Teſte apud Glouc. 6 Febru.

So that here you ſee, there is a difference between the *Communi Concilio*, and the *Majori Concilio*; but neither do you ſet forth, nor can I gueſs what thoſe Liberties were, being before our *Magna Charta* of *England*, as you confeſs, *p.* 45. and does appear by

our

our Statute-Books; the latter being made the Ninth Year of his Reign, and this, you ſay, in the Firſt. But I cannot allow of your Paraphraſe on it, *p.* 48. *Here we have a free Grant, of all the Liberties of* England, *to the People of* Ireland; I differ with you in this, becauſe the Grant you mention doth not ſay, they ſhall enjoy all the Liberties of Engliſh Men, but all thoſe Liberties which had been granted by his Father and himſelf to his Kingdom of *England*; what thoſe were you do not ſet forth, and it can have no Reference to our *Magna Charta*; beſides, it ſeems ſtrange he ſhould, *ex mero motu*, then grant thoſe Priviledges to *Ireland*, which, if I miſtake not, coſt *England* afterwards a great deal of trouble, to bring him to acknowledge to be their right.

But be this as it will, I do not ſee how it ſignifies much to the queſtion in hand, except it be allowed, that the King by Charter can diſcharge the Subjects of *England* from Obedience to the Legiſlative Power.

Nor can I ſee what uſe you make of the Record produced from Mr. *Petit*, p. 49 & 50. except it be to ſhew, that the Citizens and Burghers of *England*, were a part of the Parliament of *England*, time out of mind; if this be the deſign, I have no reaſon to differ from you; nor ſhall I diſſent from

from you in this, that the Parliament of *Ireland*, hath in times paſt (but how long I know not) and ſtill doth, raiſe Money on the Subject there, *p.* 51. But yet this doth not prove, that *Ireland* is free from the Juriſdiction of the Parliament of *England*; nor can any meaſures be taken from this Quotation, either to prove that there was a Parliament in *Ireland* at that time, or the Powers it had, being, as you confeſs, only a Letter from the Queen in her Neceſſities, and you do not tell us what was done thereon.

Your next Record is in the 12th of *Henry* III. *p.* 52, 53. directed to *Richard de Bourgh*, then Juſtice of *Ireland*, to aſſemble the Archbiſhops, Biſhops, *&c. Et coram eis publice legi faciatis Chartam Domini J. Regis Patris noſtri cui ſigillum ſuum appenſum eſt quam fieri fecit & Jurari à Magnatibus Hibern. de legibus & conſuetudinis Angliæ obſervandis in Hibernia & precipiatis eis exparte noſtra quod leges illas & conſuetudines in Charta prædicta contentas de cætero firmiter teneant & obſervent & hoc idem per ſingulos comitatus Hiberniæ clamari faciatis & teneri prohibentes firmiter exparte noſtra & ſuper foris facturam noſtram nequis contra hoc mandatum noſtrum venire præſumat*, &c. p. 53. Here is no mention made of their making Laws themſelves, but that they

ſhall

shall be governed by the Laws made in *England*; nor do I find by any Record you produce, that that Assembly, or any other, had power to refuse the Laws transmitted to them from time to time out of *England*; So that all these Records, and the Proceedings thereon, confirm my Opinion, that you are in the wrong; and I am apt to question, whether Originally the Parliaments of *Ireland* had Power to make Laws, but only to Receive and Obey those sent from *England*; it doth not appear they had, by any thing you have yet produced, and then the People of *Ireland* will be little beholding to you for the pains you have taken; Though I perceive you draw a strange Inference, *p.* 55. That *from the days of the three Kings* (*viz.* Henry II. *King* John, and Henry III.) England *and* Ireland *have been both governed by the like Forms of Government, under one and the same supream head, the King of* England; *yet so, as that both Kingdoms remained separate and distinct in their several Jurisdictions.*

You say, *p.* 56. That *you will mention no more precedents, nor enter no farther into that matter*; and herein, I think you do well, except they will make more for you, then those you have quoted already; though if one would take for Law the Descants

you

you make on them, they would ſeem to infer more then they do; (which, as I have before hinted, ſeems to be your fault throughout your whole Book) But Charters and Grants do beſt explain themſelves.

You ſay, pag. 56. *If we now inquire what were thoſe Laws of* England *that became thus eſtabliſhed in* Ireland? *Surely we muſt firſt reckon the great Law of Parliaments*; which you explain after thus, *The free Debate and Conſent of the People, by themſelves, or their choſen Repreſentatives*; I ſhould be glad to ſee this *totidem Verbis* in the Charters, which would ſeem plainer to me, than to be governed by your Gloſſes; however, it not being my Deſign to inquire, by what Steps the Parliament of *Ireland* grew up to what it now is, but to defend the Juriſdiction of the Parliament of *England* over *Ireland*, I ſhall enquire no farther into that matter; and this, after all you have ſaid, ſeems plain from the Actions of thoſe very Times; for the ſame King *Henry* III. who beſt knew what Priviledges he had granted, in the Fourteenth Year of his Reign, made a Law to bind *Ireland*, called, *Statutum Hiberniæ*, which paſt at *Weſtminſter* the 9th of *February*, 1229. which is about the ſame time he impower'd *Richard de Burgh* to ſummon together the People

People of *Ireland*, pag. 52. which you would have to be a Parliament, but I much doubt it; Note, that this was Twelve Years after the Two great Charters from *Briſtol* and *Glouceſter*, pag. 45, and 47.

And here methinks you ſeem to differ from what you had ſaid before, pag. 29. *That* Henry II. *did not only ſettle the Laws of* England *in* Ireland, &c. *but did likewiſe allow them the Freedom of holding* Parliaments *in* Ireland, *as a ſeparate and diſtinct Kingdom from* England, for which you quoted Sir *Edward Cooke*; and pag. 56. you ſaid, *Mr.* Pryn *acknowledges One*, (*viz.* a Parliament in *Ireland*) *in* Henry IId's *Time*; and now, pag. 58. you ſay, *Till a regular Legiſlature was eſtabliſhed among them*, and this is after the Three Firſt Kings, *viz.* *Henry* II. *Richard* I. and King *John*; ſo that here you grant, there was no Parliament ſettled in *Ireland* till *Henry* IIId's Days, and yet you allow, pag. 58. that till that time *Ireland* was governed by the Statute Laws of *England*; your Words are, (ſpeaking of the Statute Laws of *England*) *we muſt repute them to have ſubmitted to theſe likewiſe*; if ſo, then all the Grants of *Henry* II. *Richard* I. and King *John*, did not diſcharge the People of *Ireland* from being governed by the Statute Laws of *England*; Pray then, when and how came they to be diſ-

discharged? I think now the *Onus probandi* lies plainly on your Side; the Charters of *Henry* III. before recited, do not discharge them; nor doth that of King *John*, but rather bind them faster; the Words are, pag. 53. *Coram eis publice legi faciatis Chartam, &c. & precipiatis eis exparte nostra quod Leges illas & consuetudines in Charta prædicta contentas de cætero firmiter teneant & observent*; So that by your own Arguments it doth appear, that the People of *Ireland* are bound to obey the Statutes made in the Parliament of *England*, except you can produce something later to discharge them; and then what becomes of your *Modus tenendi Parliament* so much talk'd of before in *Henry* IId's Days? and herein we are again agreed.

You proceed pag. 58. and say, *That the Statutes of* England, *from the* Norman *Conquest to* Henry III*d's Time, were very few, and slender, only Charters, or several Grants of Liberties from the King; which nevertheless had the Force of Acts of Parliament*, &c. The shortness of an Act of Parliament does not, I hope, make it less a Law, I wish they could have kept to those short Forms still; but that which makes an Act of Parliament is, the Consent of the People given at the making of it; if this were wanting, the Grants and Charters you mention

tion could be no Laws; which Right the People of *England* pretend to, by an original Contract, beyond any Books, *&c.* and as old as the Common Law of *England*; whereas you seem to infer, that our Statute Laws were only Charters, or Grants from the King, till *Henry* IIId's Days; which I think is an Opinion very disadvantagious to the Liberties of the People of *England*, for which I judge they will give you no thanks, except you likewise allow, those Charters and Grants were made with their Consent, and so were only Declaratory, and then no matter what Form they were made in, or by what name you call them, if that essential part of a Law, *viz.* the Peoples Consent was not wanting: I cannot believe there was ever any time, when the Liberties of the People of *England* depended on the Bounty of the King.

And so I proceed to *p.* 63. where you say, *you will enquire, how the Statute-Laws and Acts of Parliament made in* England *since the* 9th *of* Henry III. *came to be of force in* Ireland; and this, you conclude, *p.* 64. proceeded from their being allowed of, and confirmed in the several Parliaments there, and that without this Allowance, they had not been Obligatory in *Ireland*; for this you produce the *Irish* Statutes of 10 *Henry* VII. 10 *Henry* IV. and 29 *Henry* VI.

the first you say allows of several Acts made in *England*, to be Laws binding in *Ireland*; the two last prohibit any Statute made in *England*, from being in force in the Kingdom of *Ireland*, unless they were allow'd and published by the Parliament of *Ireland*; but yet these Statutes you say, *p.*64 and 65, *are not to be found in the Rolls, nor any Parliament Roll of that time*, but we must depend on the Evidence of Sir *Richard Bolton, formerly Lord Chief Baron of the* Exchequer *in* Ireland, *who*, you say, *had seen the same exemplified under the Great Seal:* If I grant this, I think I do you a great Favour; otherwise I may be apt to call in Question, whether you had any Parliaments in *Ireland* in these days; you grant before, that you had none till *Henry* III. and I do not find, by what you have written, when that Constitution first began; and now you say, you have no Parliament Rolls of *Henry* IV*th.* VI*th.* & VII*th.* But you say, *Sir* Richard Bolton *had seen an Exemplification, which remaineth in the Treasury of* Waterford; sure 'tis a slender Argument; but because the stress of the Matter doth not lye on this, I will for once grant it you on the bare Testimony of Sir *Richard Bolton*; and would you infer from this, that the Statute Laws of *England* are of no Force in *Ireland*, till

they are allowed by the Parliament there? Pray Sir, how came your Parliament to assume such a Power, as to dispute the Authority of the Parliament of *England* over them? What, if all our Corporations in *England*, and Plantations in *America* should do the same, who have all Grants and Charters from the King, would this be sufficient to free them from the Government of the Parliament? if not, how comes *Ireland* to be set free by an Act of its own? No, Sir; English Statutes receive no Force or Sanction from Acts of Parliament made in *Ireland*.

You raise a fair Objection against your self, pag. 65, 66. *viz. That the very mentioning these Acts of Parliament in* Ireland *to prohibit English Acts of Parliament from binding that Kingdom, does show, that even in those days, the Parliaments in* England *did claim this Superiority*; but you do not so fully answer it, pag. 66. by saying, *There is nothing so common as to have one Man claim another Man's Right; and if bare Pretence will give a Title, no Man is secure*; for it appears, this is no Pretence or bare Claim, but a Power the Parliament of *England* once had, and you do not tell us when they lost it.

You say, P. 67. *This Superiority of the Parliament of* England *hath been doubted a great while ago, and a great while ſtrenuouſly oppoſ'd, and abſolutely denied by the Parliament of* Ireland: Pray, where was this ſtrenuouſly oppoſed, and in what manner? Did the Parliament of *Ireland* ever enter any publick Proteſt againſt this Superiority, or did the Kingdom of *Ireland* ever deny Obedience to the Acts of Parliament made here, with intention to bind them? No certainly, I never heard that any of them were rejected, but they have ſtill been received, and then what need had the Parliament of *England* to enquire farther into this matter? But you ſay, P. 68. *That we have not one ſingle Inſtance of an Engliſh Act of Parliament expreſly claiming this Right of binding us.* What do you infer from thence? I know not one ſingle Inſtance of an Act of Parliament, that the King of *England* ſhall have a Negative Voice, no, it is his Prerogative, and therefore needed not an Act of Parliament; nor is there any more need of it for the other.

P. 68, 69, 70. You go on to ſhow, how the Parliament of *Ireland* accepted, and allowed ſeveral Acts made in *England*; (I take them to be Statutes not deſigned to bind *Ireland*, but it matters not much, and therefore I will not be at the pains to peruſe them)

them) and from hence you draw this Conclusion, p. 70. *Thus you see, by what steps and degrees all the Statutes which were made in* England, *from the time of* Magna Charta *to the Tenth of* Henry *the VIIth, which did concern the Common Publick Weal, were received, confirmed, allowed, and authorized to be of force in* Ireland; *all which was done by assent of the Lords Spiritual and Temporal, and the Commons in the Parliament of* Ireland *Assembled, and no otherwise*: A very pretty way of Arguing, *viz.* That because the Parliament of *Ireland* did allow of all the Statutes made in *England* to be good in *Ireland*, therefore they had not been so without such Allowance; who do you think is convinced by this Argument besides your self? Certainly an indifferent Man would rather have drawn this Conclusion from it, *viz.* That the Parliament of *Ireland* look'd upon themselves obliged to allow of, and pay Obedience to the Laws made by the Parliament of *England*.

From p. 70, to 77. you proceed to shew, how and at what time, several English Statutes were allowed of in the Parliament of *Ireland*: To this I can say no more than I have done before, only I shall observe what you say, p. 70, 71. *That by the Opinion of your best Lawyers, there are divers, both before, and since the* 10th *of* Henry *the*

VIIth, which were, and are of force in Ireland, *though not allowed of by that Parliament*; and the reason you give for it is, P. 71. *That they are Declaratory of the antient Common Law of* England, *and not Introductive of any new Law.* Do you think, Sir, this to be the only reason why those Laws are of Force in *Ireland*? Suppose Laws had been made to the same purpose in the Parliament of *Scotland*, would they therefore have been pleadable in *Ireland*? If not, let me ask you, Why should the Laws made by the Parliament of *England* have more force in *Ireland*, than those made in *Scotland*? There can be no other reason given for it, but this, That *Ireland* is subject to the Jurisdiction of the Parliament of *England*, but is not subject to the Jurisdiction of the Parliament of *Scotland*. Had you told us what Acts of Parliament these were, we might have judged whether they were Declaratory, or no; but since you have omitted that, I think the Answer have given sufficient.

P. 77. You proceed to consider the Objections and Difficulties that are moved against this your Proposition, that the *English* Laws become passable in *Ireland* only by the Consent of the People and Parliament thereof; these, you say, arise from *Precedents and Passages in your own* Book

Books, that seem to prove the contrary; which shews, that as Cocksure as you are in this Particular, it hath been disputed, and doubted by your own Lawyers, and in your own Parliaments too, if I take the matter right.

The first you mention is in p. 78. you say, *That in the* Irish *Act concerning Rape, passed* Anno 8 Edvardi 4. *'tis expressed, that a doubt was conceived, whether the* English *Statute of the Sixth of* Richard *the Second, Chap. 6. ought to be of Force in* Ireland, *without the Confirmation thereof in the Parliament of* Ireland; all the use I shall make of this is, that your Parliaments then doubted this thing.

Your second Objection is, p. 80. *That though perhaps such Acts of Parliament in* England, *which do not name* Ireland, *shall not be construed to bind* Ireland; *yet all such* English *Statutes as mention* Ireland, *either by the general Words of his Majesty's Dominions; or by particularly naming of* Ireland, *are and shall be of force in this Kingdom.* These are your Words, and *This*, you say, *was a Doctrine first broached directly, by* William Hussy, *Lord Chief Justice of the* King's-Bench *in* England, *in the First Year of* Henry *VIIth, and of late revived by the Lord Chief Justice* Cooke. Pray, Sir, do you speak in earnest? Was this Doctrine never broach'd

before the Reign of *Henry* the VIIth? What think you of the several Acts of Parliament made in the several Kings Reigns since *Henry* the Third, down to *Henry* the Seventh, in some whereof they mention *Ireland*, in others they do not, do you not believe those several Parliaments thought there was some difference in those Acts? But when the Lord Chief Justice *Hussy*, and Sir *Edward Cook* after him, both Persons of great Station in the Law, broach'd this Opinion, what was done in the Parliament of *Ireland* thereon? Did they ever by any publick Act declare these Oracles of the Law to be in the wrong? I do not find by any thing you say that they did, and do believe, you would not have let such an Argument have lain asleep, if you could have brought it; therefore I conclude they did not; but on the contrary it doth appear, that all Laws of that Nature have ever since been observed, and obeyed in *Ireland*, and many of them of much later Dates; and now I wonder you should come to dispute it by your private Opinion, One hundred and fifty Years after the Death of *Hussy*, when in all this time the Body of *Ireland* hath not undertaken it.

But I will examine your Arguments against this; The first is, *That the King and his Privy-Council in* England, *have often* transf-

tranſmitted into Ireland, *to be paſſed into Laws there. Engliſh Statutes, wherein the general Words,* [*Of all His Majeſty's Dominions, or Subjects,*] *were comprehended*; from whence you conclude, that they were of a contrary Opinion, p. 81, 82. Suppoſe this to be ſo, the moſt you can conclude from it is, that it obliquely ſhews the King and Privy-Councils Opinion; and doth not the Parliaments paſſing ſuch Acts, as well ſhew the Opinion of the Legiſlative Power of *England*? But what if the King and Privy-Council of *England* do (as you ſay) *actum agere*, ſhall this make the Parliaments Intentions, in making thoſe Laws void? No certainly, no more than the Parliament of *Ireland*'s confirming them, ſhall prove they were not binding before; for whither the Parliament of *Ireland* accept or refuſe thoſe Laws, that are made by the Parliament of *England*, with intention to bind *Ireland*, they are never the more or leſs binding there.

P. 84. You proceed and tell us, *You ſee no more reaſon for binding* Ireland, *by the* Engliſh *Laws under the general Words,* [*Of all His Majeſty's Dominions, or Subjects*] *than there is for binding* Scotland *by the ſame.* Truly, Sir, I believe you; elſe I ſhould wonder to have ſeen you taking ſo much Pains: But becauſe I am of a different Opini-

on, let me consider this Matter with you;

Ireland is by several Laws made both in this Kingdom, and in that, annexed and joined to the Imperial Crown of *England*; but *Scotland*, tho' it has been often sought for, never yet obtained that favour.

Ireland you confess submitted it self to King *Henry* the Second, and thereby became at first annexed to the Crown of *England*; one of the Terms of which Submission was, That it should be govern'd by the English Laws; whereas *Scotland* was united to it in the Person of King *James*, and since that by its voluntary Recognition of King *William* and Queen *Mary*, still keeping its own Laws, and leaving a possibility of its becoming a separate Kingdom again, which *Ireland* never can be.

The People of *Ireland*, I mean the *English* and *Britains*, which you say p. 20, *are a Thousand for One of the antient Irish*, were once subject to the Legislative Power of *England*; which the People of *Scotland* never were, but always a separate Kingdom.

The People in *Ireland* have all the Privileges of English Men, and thereby under the easiest Government in *Europe*; which the People in *Scotland* have not whilst they remain in that Kingdom.

The People in *Ireland* are governed by the

the Common Laws of *England*, one part whereof is, That those Laws may be inlarged, abridged, or altered by the Parliament of *England*; but the People in *Scotland* are, and ever were, governed by their own Laws.

Ireland is mentioned in several of our Statutes, as part of the Kingdom of *England*, and joined with *Wales* as a dependant thereon, which *Scotland* never was thought to be; *viz.* 27 *Edward* III. *Sess.* 2. in the Preamble of that Statute are these Words, Sect. 2. *For the Damage which hath notoriously come as well to us and the Great Men, as to the People of our Realm of* England, *and of our Lands of* Wales *and* Ireland. Cap. 1. it goes on, *First that the Staple of Wools*, &c. *within our said Realm and Lands*: Cap. 2. *Item to repleniſh the ſaid Realm and Lands with Money and Plate*, &c. Cap. 3. *Item we Will and Grant that all Merchants*, &c. *through our Realm and Lands*, Cap. 4. *Item far as much as no Staple can be profitable for us and for our Realm and Lands*. Cap. 7. *Item We Will and Grant that no Licence or Priviledge to make Paſſage by* Engliſh-men, Iriſh-men, *or* Welch-men, *of Wools*, &c. *out of the ſame Realm and Lands*, &c. Cap. 10. Sect. 2. *We Will and Eſtabliſh, that one Weight, one Meaſure, and one Yard, be through all the Land*, &c. Here *Ireland* is com-

comprehended under these words, *throughout all the Land*, which I suppose will, without Objection, be admitted to be the Kingdom of *England*; if *Ireland* is not comprehended under those general Words, then *Wales* is not, and then one Weight and Measure was appointed for *England*, and another permitted to be in *Wales*; but if *Wales* is comprehended under them, then *Ireland* is also: And this you may know, by considering what Weights and Measures are settled in *Ireland*, and when. Cap. 11. *Item, We have Ordained and Established, That all Merchants*, &c. *that do bring Wines*, &c. *to the Staples, Cities*, &c. *within our said Realm and Lands.* Cap. 12. *Item, no Merchant*, &c. *shall carry out of our Realm of* England, *Wools, Leather*, &c. Here *Ireland* is again comprehended under the general Words, our Realm of *England*, or else *Wales* is not, and the purport of the Act shows that; for can it be thought, that the People of *Wales* and *Ireland*, had Liberty to export Wools, Leather, *&c.* into Foreign Parts, when this was denied to the People of *England*? Cap. 13. *Item, We Will and Grant, That if any Merchant, Privy, or Stranger, be Robbed of his Goods upon the Sea, and the Goods so Robbed come into any Parts within our Realm or Lands.* Cap. 14. *Item, We have Ordained, That all Mer-*

Merchants, Privy, or Strangers, may ſafely carry and bring within our ſaid Realm and Lands, Plate of Silver, &c. and in the next *Sect. Provided always, that no Money have common courſe within our ſaid Realm and Lands, but the Money of Gold and Silver of our Coin.* So in *Cap.* 17. the Words *Realm and Lands* are thrice expreſſed, as comprehending *England*, *Wales* and *Ireland*. By all which it appears to me, That in thoſe Days there was no thoughts of *Ireland*'s being a ſeparate Kingdom, or making Laws for themſelves (any other than By-Laws.) But they were ſuppoſed to be part of the Kingdom of *England*, and under the Juriſdiction of the Legiſlative Power thereof; and yet this was long after the pretended Grant of *Henry* II. to his Son *John* to be King of *Ireland*, as a ſeparate Kingdom; which does confirm me in what I have ſaid before, that what is now call'd the Parliament of *Ireland*, was formerly no more than a Summoning the Great Men of the Kingdom together, and commanding them to obey the Laws made in *England*, as you have it in the Writ ſent over by King *Henry* the Third to *Richard du Burgh*, mentioned before, which is tranſcribed by you, *P.* 53. *Coram eis publice legi faciatis*, &c.

The

The Parliament of *England*, in those days, was very careful of their Power, and did not easily part with their Jurisdiction; they presently put in their Claim, so soon as the Kings of *England* got any footing, either by Conquest or Submission. In the Statutes made at *Westminster*, 27 *September*, the 11th of *Edward* III. *Anno* 1337. I find Laws made to bind *Scotland*, *cap.* 1, 2, & 4. are repealed, so I cannot see their Contents: But *cap.* 3. runs thus; *Item*, *It is accorded and established*, *That no Merchant*, &c. *shall bring*, &c. *into the said Lands of* England, Ireland, Wales *and* Scotland, *within the King's Power*. And *cap.* 5. runs thus, *Item*, *It is accorded*, *That all the Clothworkers of strange Lands*, &c. *which will come into* England, Ireland, Wales, *or* Scotland. I do not find any Acts of this nature, made either before that time or after, which put me upon perusing the Histories and Chronicles of *England* about that time: *How* saith, *That Anno Regni* 5 *Ed.* 3. 1331. *Edward Baliol* (who was Son to *John Baliol* sometime King of *Scotland*) *was by the Assistance of the said King* Edward *crowned King of* Scots; *but afterward he resigned it to the said King* Edward *of* England, *and remained under his Protection many years after*. *Baker* saith, That, *to hold a good Correspondence with the King of* England *hereafter*, *he doth him homage*

homage for his Realm of Scotland. And no doubt, had *Scotland* ſtill continued ſo, the guilded flouriſhes of a ſeparate Kingdom, would not have tempted the Parliament of *England*, to have parted with their Authority, of making Laws to govern it; and can it be thought, they ſhould ſo eaſily let *Ireland* ſlip? it doth not appear ſo by any Act of their own; and for the Acts of others, they can be no Precedents againſt them.

But to proceed: There are yet other Reaſons why *Ireland*, ſhould be more bound by the Statute-Laws of *England*, then *Scotland*: *Ireland* hath been always accounted ſo much a part of the Imperial Crown of this Kingdom, that on the late Revolution, when the Crown of *England* was ſettled on the then Prince and Princeſs of *Orange*, *Stat. primo Guil. & Mar. cap.* 2. They are declared King and Queen of *Ireland*, as well as *England*; and by that Recognition they had been ſo, though the Parliament of *Ireland* had oppoſed it; whereas the Caſe was not the ſame with *Scotland*: The Rights and Priviledges of the People of *Ireland* were alſo ſettled by the ſame Statute, equal to thoſe of the People of *England*; But the Rights and Priviledges of the People of *Scotland* were not. Nor was this Recognition made in their Names, they took their

own

own time to do it, and to ſettle the Rights and Priviledges of their own Kingdom as they pleaſed, being a ſeparate Kingdom, without dependance on the Kingdom of *England*. I wonder you hang ſo much in this Paragraph, on *Ireland*'s being a ſeparate Kingdom in the Perſon of King *John*; no Man of Sence, who had examined that matter, would make any dependance thereon, and ſuch I take you to be, therefore it looks as if you had a mind to betray and give up the Cauſe, did I not think you a Gentleman of greater ſincerity; you had certainly found a better Argument in your original Contract, could you have made it out.

Page 85. You proceed to take into conſideration, ſuch Engliſh Statutes as particularly name *Ireland*; and theſe you divide, into *Ancient Precedents* and *Modern Inſtances*; and conclude, That if the former do not make againſt you, the latter are only Uſurpations made upon you.

I think this fully anſwer'd before; But I will take your own way, and follow the Thred of your own Arguments, though I think you ſpin it too long.

The Ancient Precedents of Engliſh Statutes deſigning to bind Ireland, you ſay, *are, firſt* Statutum Hiberniæ, 14 *Hen.* 3. *Secondly*, Ordinatio pro Statu Hiberniæ, 17 *Edw.* 1. *Third-*

Thirdly, *An Act concerning Staples*, 2 Hen. 6. *pag.* 85, & 86.

And are these all? What think you of the Statute of Merchants, made at *Westminster* 13 *Edw.* 1. *Anno* 1258? wherein are these words, *Sect.* 35. *This Ordinance and Act, the King willeth to be observed from henceforth through his Realm of* England *and* Ireland. What think you of the Statutes made at *Westminster* 11 *Edw.* 3. *Anno* 1337. which I recited before, where *cap.* 3. all Foreign Clothes are prohibited to be brought into *Ireland*: and *cap.* 5. Clothworkers are invited to settle in *Ireland*, and are encouraged thereto by Franchises promised them? What think you of the Statute of the Staple, mentioned before, made 27 *Edw.* 3. *Anno* 1353? In the Preamble of which Statute *Ireland* is mentioned, and *cap.* 1. bears this Title, *Where the Staple for* England, Wales *and* Ireland *shall be kept, whether Merchandizes of the Staple shall be carried, and what Customs shall be paid for them.* Which Chapter shews, That the Parliament of *England* had Power of raising Money, by laying Customs on Commodities in *Ireland*.

At this Sessions were made Twenty eight Acts, or Chapters, call them which you will, and all point at *Ireland*.

But

But I cannot pass by this last Statute of 27 *Edw.* 3. without making observation on its Preamble, which I here give you *verbatim*; Edward *by the Grace of God*, &c. *To our Sheriffs, Mayors, Bayliffs, Ministers, and other our faithful People, to whom these present Letters shall come, greeting. Whereas good deliberation had with the Prelates, Dukes, Earls, Barons, and great Men of the Counties, that is to say, of every County one for all the County, and of the Commons of our Cities, and Boroughs of our Realm of* England, *summoned to our great Council holden at* Westminster *the Monday next after the Feast of St.* Matthew *the Apostle, the 27th Year of our Reign of* England, *and of* France *the 14th; For the damage that hath notoriously come, as well to us and to our great Men, as to our People of our Realm of* England, *and of our Lands of* Wales *and* Ireland, *because that the Staple of Woolls, Leather, and Wool-fells of our said Realm and Land, have been holden out of our said Realm and Lands, and also for the great Profits which should come to the said Realm and Lands, if the Staple were holden within the same, and not elsewhere: to the Honour of God, and in Relief of our Realm and Lands aforesaid, and to eschew the Perils that might happen of the contrary in time to come, by the Counsel and common Consent of the said Prelates, Dukes, Earls,*

and

and Barons, Knights and Commons aforesaid, we have ordained and established the things under written.—— Here the King is called King of *England* and *France*, without mentioning *Ireland*; but we find the Laws made in that Sessions, to be binding to his Lands of *Wales* and *Ireland*, as I have before observed. The King also takes notice of the Summons sent to the Prelates, Dukes, Earls, Barons, and great Men of the Counties, and Commons of Cities and Boroughs of his Realm of *England*, summoned to his great Councel holden at *Westminster*, &c. without mentioning any thing of *Ireland*, though it was bound by the Laws made in that Sessions. By all which it doth appear to me, That *Ireland* was lookt on in those days, as an Appendix to the Kingdom of *England*, all one as *Wales*; and yet the Laws of that Sessions were received in *Ireland*: Why did not the Parliament of *Ireland* (if there was then any) make an early Protestation against this irregular Proceeding, and condemn it as an Encroachment on their Priviledges? which had been much better, then for you to undertake this Task three hundred and fifty years after.

But to proceed: What think you of the Statute made at *Westminster* 34 *Edw.* 3. *Anno* 1360? the Preamble is, *These be the things which our Lord the King, the Prelates, Lords,*

and Commons have ordained in this preſent Parliament holden at Weſtminſter *the Sunday next before the Feaſt of the Converſion of St.* Paul, *to be holden and openly publiſhed through the Realm:* and yet the Title of *cap.* 17. is, *Merchandize may be carried into, and brought out of* Ireland. By which it appears, That the Parliament of *England* made Laws to regulate the Trade of *Ireland* in thoſe early days, and that the Bill relating to the Woollen Manufactures, now depending before the preſent Parliament, is not a *Modern Inſtance* of that Power: *Cap.* 18. of that Seſſions hath this Title, *They which have Lands in* Ireland, *may carry their Goods thither, and bring them again.* From both which I make this obſervation, That the Preamble ſaith, *Theſe are to be holden and publiſhed openly thorough the Realm*; and the 17th and 18th *Chapters* ſhew, that *Ireland* is part of that Realm.

In the 4th of *Henry* 5. *cap.* 6. an Act was made, but is now Ob, ſo I find nothing but its Title in the Statute Book, which is this, *If any Archbiſhop, Biſhop,* &c. *of* Ireland, *Rebel to the King, ſhall make collation of a Benifice to any Iriſh-man, or bring any Iriſh-man to the Parliament to diſcover the Counſel of Engliſh-men to Rebels, his Temporalities ſhall be ſeized until he hath made Fine to the King.* By which it doth appear,

That

That the Parliament of *England*, took notice there was a Parliament in *Ireland*, and made Laws to bind that Parliament.

All theſe Statutes bound *Ireland*, and doubtleſs many more there are, had I time to look after them, but I mention theſe, becauſe they come within the compaſs of your *old Precedents*, being before the Second of *Henry* 6.

But before I ſpeak to your old Precedents, give me leave to mention one Statute more, *viz.* 1 *Hen.* 6. *cap.* 3. which, though I do not produce as a Precedent binding *Ireland*, yet it will ſerve to ſhow, what opinion the Parliament of *England* had of *Ireland* in thoſe days: the words are theſe, *Foraſmuch as divers Manſlaughters*, *Murders*, &c. *and divers other Offences now late have been done in divers Counties of the Realm of* England, *by People born in the County of* Ireland, *repairing to the Town of* Oxford, *&c.* I will make no Paraphraſe on them, they are eaſie to be underſtood by any Engliſh Reader; and this is a Modern Statute, in reſpect to the time of *Henry* II. when you ſay *Ireland* was made a ſeparate Kingdom, and ſettled by him on his Son *John*, in a Parliament at *Oxon*, whereas this Parliament calls it a County.

Well then, let us ſee what you ſay againſt theſe *Ancient Precedents* you have

produced, before we come to the *Modern Inſtances*, as you call them.

Theſe Statutes, you ſay, pag. 86. *eſpecially the two firſt*, (meaning *Statutum Hiberniæ*, and *Ordinatio pro Statu Hiberniæ*) *being made for* Ireland, *as their titles import, have given occaſion to think, that the Parliament of* England *have right to make Laws for* Ireland, *without the conſent of their choſen Repreſentatives.* Surely every Body, I think, is of that Judgment, that hath lookt into the matter; no, you diſſent from it, and for this gives ſeveral Reaſons.

The firſt is *pag.* 86, 87, 88. which I am obliged here to tranſcribe, The *Statutum Hiberniæ* 14 Hen. 3. *as 'tis to be found in the Collection of Engliſh Statutes, is plainly thus: The Judges in* Ireland *conceiving a doubt concerning Inheritances devolved to Siſters or Coheirs*, viz. *whether the younger Siſters ought to hold of the eldeſt Siſter, and do homage unto her for their Portions, or of the chief Lord, and do homage unto him; therefore* Girald Fitz-Maurice, *the then Lord Juſtice of* Ireland, *diſpatched four Knights to the King in* England, *to bring a Certificate from thence of the practice uſed there, and what was the Common Law of* England *in that Caſe; whereupon* Henry III. *in this his Certificate or Reſcript, which is called* Statutum Hiberniæ, *merely informs the Juſtice what the Law and Cuſtom*

Cuſtom was in England, viz. *That the Siſters ought to hold of the chief Lord, and not of the eldeſt Siſter. And the cloſe of it commands, That the foreſaid Cuſtoms that be uſed within our Realm of* England *in this caſe, be proclaimed throughout our Dominion of* Ireland, *and be there obſerved. Teſte meipſo apud Weſtminſt. 9 Febr. An. Reg.* 14. From whence you infer, *That this Statute was no more then a Certificate of what the Common Law of* England *was in that caſe, which* Ireland *by the original Compact was to be governed by.*

And do you really ſpeak your Thoughts herein? Was it ever cuſtomary for the Judges to ſend to the King to expound Law to them; and for the King by Certificates, to direct them what they ſhould give for Law? I thought their Buſineſs had been to declare the Law impartially between the King and his Subjects; and that, if they doubted in any Points of the Common Law, their Cuſtom had been to adviſe one with another, or with ſome other Learned Councel in the Law. Is it to be thought the King knew Law better than his Judges? I would not have you inſiſt on this, for the Honour of the Long Robe in *Ireland.*

But, Sir, there is more in this, then perhaps at firſt you think; for either this is a Statute Law, and our Books call it ſo, therefore in your favour I will believe it ſo, or

elſe the King had in thoſe days an Abſolute Power and Authority to impoſe on *Ireland* what Laws he thought fit: For, in the cloſe of that Statute, 'tis ſaid, *Therefore we command you, That you cauſe the foreſaid Cuſtoms that be uſed within our Realm of* England *in this caſe, to be proclaimed throughout our Dominion of* Ireland, *and to be ſtraitly kept and obſerved.* If all our Acts of Parliament, which declare the Common Law of *England*, ſhall be called Certificates, pray what will become of *Magna Charta*, *Charta Foreſta*, and moſt of our old Laws, which were generally Declarations of what was the Common Law of this Kingdom, and what were the Rights and Liberties of the Subjects, before the making of them.

I come now to your ſecond *old Precedent*, the Statute called *Ordinatio pro Statu Hiberniæ*, made at *Nottingham* 17 *Edw.* 1. *Anno* 1288. *This*, you ſay pag. 88. *was certainly never received or of force in* Ireland: And you further ſay, That *this is manifeſt from the very firſt Article of that Ordinance which prohibits the Juſtice of* Ireland, *or others the King's Officers, there to purchaſe Lands in that Kingdom, or within their reſpective Bailiwicks, without the King's Licence, on pain of Forfeitures. But, that this has ever been otherwiſe, and that the Lords Juſtices and other Officers here, have purchaſed Lands in* Ireland,

Ireland, *at their own Will and Pleaſure, needs no proof to thoſe who have the leaſt knowledge of this Country.*

Is this a fair Argument againſt the Validity of a Statute, That it hath not had due obedience rendred to it? If this be Law, I am afraid many of our late good Statutes have run the ſame fate; but I never knew till now, That the Peoples Obedience was an Eſſential part in a Statute; I thought, the Conſent of King, Lords, and Commons, given to it in Parliament, had been enough. But we will not let this Matter fall without further examining into your Argument: That Statute conſiſts of eight Chapters, let us ſee which of thoſe Chapters have not been received and obeyed; you only mention the firſt, *viz. That the Lords Juſtices of* Ireland, *and other Officers, have purchaſed Lands in* Ireland *at their own Will and Pleaſure*, as you recite it *pag.* 88. But the words in the Statute are theſe, *That the Juſtices of* Ireland, *nor any other Officers of ours of the ſame Realm, ſo long as they are in our Service there, ſhall purchaſe any Land or Tenement within the Liſt or Bound of their Bailiwicks without our ſpecial Licence.* Which makes a great Alteration in the Matter; for they might purchaſe Lands or Tenements, both before, and after they were in their Offices.

But we will take the Words as you give them; how does it appear that this Law was not obſerved? You ſay, p. 89. *It does not appear by any Inquiſition, Office, or Record, that any one ever forfeited on that account.* It may be ſo, perhaps it was never broke, and then there was no need of an Inquiſition; or the King might grant Licence, as that Law does direct, to his Juſtices and other Officers, to purchaſe Lands during their being in their Offices; or they might purchaſe them without the Liſt or Bounds of their Bailiwicks; and then the Terms of the Law were complied with: But I am apt to think you will carry this farther, and ſay, That in later Years the Juſtices of *Ireland*, and other the King's Officers, have not taken notice of this Law; perhaps ſo, and what would you draw from this? How many old Laws have we in *England*, that are obſolete and diſregarded by Time; which though they fitted the Circumſtances of the Times they were made in, yet are not proper for our Days? Witneſs the Statutes againſt going Arm'd; the Statutes about Bows and Arrows; and many others, which were, and ſtill remain Statutes, till repealed, though perhaps 'twill be thought hard to put them in Execution, without giving publick Notice thereof ſometime before to the Subject.

ject. But after all, how do you know, but that these Officers, you last mentioned, may have Licences from the King, to purchase Lands, though I think it not at all to the matter, whether they have, or no.

But to proceed; That Statute, as I said before, consists of Eight Chapters, you have taken notice only of the First, therefore we will come to the next Chapter of that Statute; The Title is, *In what Case only Purveyance may be made in* Ireland. Is that observed in *Ireland*, or do the Justices or other the King's Officers, by colour of their Offices, take Victuals, or any other things, of any Person against his Will, contrary to that Chapter? The Third Chapter is about *Transporting Merchandizes out of* Ireland. Do the Justices, or any of the King's Ministers, by colour of their Offices, Arrest the Ships, or other Goods of the People of *Ireland?* The Fourth settles *The Fees of a Bill of Grace:* The Fifth settles *The Marshal's Fee in* Ireland. Perhaps you will say these Officers take more than their Fees, therefore the Statute is no Act of Parliament. Very probable they do, that is a general Distemper, where Offices have Fees annexed to them, and yet it may be an Act of Parliament still. The Sixth Chapter, its Title is, *In what Cases the Justices of* Ireland

may

may grant Pardon of Felony, and where not. The Title of the Seventh Chapter is, *By what Seal Writs in* Ireland *shall be Sealed.* The Eighth and last is, *Adjournment of Assizes in* Ireland. Are these Parts of the Statute observed in *Ireland*, or no? I ask you this, because if any one part is received, the whole is received: Obedience given to any part of this Law, acknowledges the Jurisdiction of the Law-makers; and you insist only on the First Chapter, as if the rest were no part of the Law.

That *this* Ordinatio pro Statu Hiberniæ, *is really in it self no Act of Parliament, but meerly an Ordinance of the King and his Privy-Council in* England. I have already given you my Definition, what an Act of Parliament is, and if this be no more than an Order of the King and his Privy-Council, I must be of your Mind: Let us therefore enquire farther into this matter; you say it appears to be no otherwise, *as well from the Preamble of the said Ordinance, as from the Observation likewise.* I assure you, if this Proof hath not more weight in it than the other, I shall think it an Act of Parliament still: Let us therefore see what the Preamble is, which I find to be this, Edward *by the Grace of God, King of* England, *Lord of* Ireland, *Duke of* Aquitain, *to all those who shall see or hear these Letters,* doth

+ yo. next argument. agst this. Stahels ij pa: 89

doth ſend Salutation: Know you, That for the Amendment of the Government of our Realm of Ireland, *and for the Peace and Tranquillity of our People of the ſame Land, at* Nottingham, *the Octaves of St.* Martin, *in the Seventeenth Year of our Reign, by the aſſent of our Council there being, the points hereafter mentioned be made and agreed upon, to the intent that they may be firmly obſerved in the ſame Realm.* Where pleaſe to note, that the Words are not, by aſſent of our Privy-Council, but of our Council; by which name the Parliament of *England* is often called.

It would be endleſs to give an account of the different Stiles, under which Acts of Parliament paſt in thoſe Days; ſometimes in the Name of the King only; ſometimes of the King and Great Men; ſometimes of the King and his Council; ſometimes of the King and his Common Council; and ſometimes of neither; as he, who will be at the trouble to inſpect our Statute Books may ſee; I will give ſome Inſtances inſtead of many; The great Charters are only in the King's Name, *Henry, by the Grace of God, King of* England, &c. and ſo, Edward, *by the Grace of God, King of* England, &c. The Statute, in the Twentieth of *Henry* III. made at *Merton*, hath this Preamble, *It was provided in the Court of our Sovereign Lord the King,*

King, holden at Merton *on Wedneſday the morrow after the Feaſt of St.* Vincent, *the Twentieth Year of the Reign of King* Henry, *the Son of King* John, *before* William *Archbiſhop of* Canterbury, *and other his Biſhops and Suffragans, and before the greater part of the Earls and Barons of* England, *there being aſſembled for the Coronation of the ſaid King, and* Helianor *the Queen, about which they were all called; where it was treated for the Commonwealth of the Realm upon the Articles under-written. Thus it was provided and granted, as well of the aforeſaid Archbiſhop, Biſhops, Earls and Barons, as of the King himſelf and others.* By which it appears that in thoſe Days, when the Great Men (who were the Barons or Freeholders of *England*) were called together, they made Laws, and did not ſo much regard the Stile, as that they were made by a general Conſent.

The Statute 51 *Henry* 3. *Sect.* 1. begins thus, *The King to whom all theſe Preſents ſhall come, greeting; We have ſeen certain Ordinances*, &c. Stat. 5. of the ſame Year begins thus, *The King commandeth, that all manner of Bailiffs, Sheriffs*, &c. Stat. 6. of the ſame Year begins thus, *If a Baker or a Brewer be Convict, becauſe he hath not*, &c. The Preamble of the Statutes 52 *Henry* 3. made at *Marlbridge*, 18. *November*, 1267. runs

runs thus, *In the Year of Grace, One thousand two hundred sixty seven, the Fifty-second Year of the Reign of King* Henry, *Son of King* John, *in the* Utas *of St.* Martin, *the said King providing for the better Estate of this Realm of* England, *and for the more speedy Miniſtration of Juſtice, as belongeth to the Office of a King, the more diſcreet Men of the Realm being called together, as well of the Higher as of the Lower Eſtate. It was provided, agreed, and ordained, That whereas the Realm of* England *of late had been diſquieted with manifold Troubles and Diſſentions; for Reformation whereof Statutes and Laws be right neceſſary, whereby the Peace and Tranquility of the People muſt be obſerved; wherein the King intending to deviſe convenient Remedy, hath made theſe Acts, Ordinances, and Statutes underwritten, which he willeth for ever to be obſerved firmly and inviolably of all his Subjects, as well High as Low.*

The Preamble to the Statutes made the Third of *Edward* I. runs thus, *Theſe be the Acts of King* Edward, *Son to King* Henry, *made at* Weſtminſter *at his Parliament General after his Coronation, on the* Monday *of* Eaſter Utas, *the Third Year of his Reign, by his Council, and by the Aſſent of Archbiſhops, Biſhops, Abbots, Priors, Earls, Barons, and all the Commonalty of the Realm, being thither*

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Summon'd, because our Lord the King had great Zeal and Desire to redress the State of the Realm in such things as required Amendment, for the Common Profit of Holy Church and of the Realm; and because the State of Holy Church hath been evilly kept, &c. the King hath Ordained and Established these Acts under-written, which he intendeth to be necessary and profitable to the whole Realm.

The Preamble to the Statute made the Fourth of *Edward* the First, call'd the Statute of Bigamy, runs thus; *In the Presence of certain Reverend Fathers, Bishops of* England, *and others of the King's Council, the Constitutions under-written were recited, and after heard and published before the King and his Council: Forasmuch as all the King's Council, as well Justices as others, did agree that they should be put in Writing for a perpetual Memory, and that they should be stedfastly observed.*

The Preamble to the Statutes made at Glocester, 6 *Edw.* 1. runs thus; *For the great Mischiefs, Damages and Disherisons that the People of the Realm of* England *have heretofore suffer'd through default of the Law that fail'd in divers Cases within the same Realm; Our Sovereign Lord the King, for the amendment of the Land, &c. hath provided and established these Acts under-written*

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ten., willing and commanding, that from henceforth they be firmly observed within this Realm.

The Preamble of the Statute of *Westminster* made the 13*th.* of *Edward* I. runs thus; *Whereas of late our Lord the King in the* Quinzim *of St.* John *Baptist, the Sixth Year of his Reign, calling together the Prelates, Earls, Barons, and his Council, at* Glouceſter, *and conſidering that divers of this Realm,* &c. *ordain'd certain Statutes right neceſſary and profitable for his Realm, whereby the People of* England *and* Ireland, *being Subjects unto his Power, have obtain'd more ſpeedy Juſtice,* &c. *Our Lord the King in his Parliament, after the Feaſt of* Eaſter, *holden the* 13*th. Year of his Reign, at* Weſtminſter, *cauſed many Oppreſſions of the People, and Defaults of the Laws, for the accompliſhment of the ſaid Statutes of* Glouceſter *to be rehearſed, and thereupon did provide certain Acts, as ſhall appear here following.* Here I cannot but obſerve, That the King and Parliament of *England* thought *Ireland* a part of this Realm, and ſubject to their Legiſlative Power; and that it was concerned in the *Statutes of Glouceſter* before-mentioned, though not named therein: Now whoſe Judgement ſhall we take, the King and Parliament who lived in thoſe Days, or yours, Four hundred Years afterwards?

I shall only mention one more, which is in the 21 *Edward* 1. we find there a Statute made, *De iis qui ponendi sunt in Assisis*, and at the end thereof I find this, Sect. 6. *Rex, &c. quia ad communem utilitatem populi nostri & Regni, de communi Concilio ejusdem Regni Statuerimus*, &c.

Now all these are accounted Statutes, or Acts of Parliament, and so called in the Books; which shows, that it is not the Name but the *Modus* of passing them, which is the essential part of a Statute Law: Besides, if you please to peruse your own Quotations, p. 48, and 49. you there acknowledge the Parliament to be called *Generale Concilium*, *Commune Concilium*, *Great Council or Parliament.*

I now come to your last Argument against this Statute, p. 89. *That King* Edward *I. held no Parliament in the 17th Year of his Reign.* This seems very doubtful even to your self; for it follows, *If this were a Parliament, this* Ordinatio pro Statu Hiberniæ *is the only Act thereof that is extant*; and may not that be? *Henry* III. granted the *Magna Charta* in the Ninth Year of his Reign, you allow this to be a Statute, or Act of Parliament, and yet we do not find any other Law past that Year; and but one single Act in his Fourteenth Year; One in the Ninth of *Edward* I. and many

many other Inſtances may be made of this nature.

But after all, I do not ſee how the ſtreſs of the Matter lies on this Foundation; ſuppoſe this to be no Act of Parliament, as you ſay, what then? ſhall we want *Antient Precedents* which name *Ireland*? What think you of the *Statute of Merchants*, which I have mentioned before, 13 *Edw.* 1. this was made before that of the Seventeenth Year, which you ſo much contend about, and *Ireland* is expreſly named in that Statute. The Sum is this, you ſay it is not a Statute, I ſay it is, and the Books call it ſo: I have alſo given my Reaſons why I think it ſo, not that I think it material to our Debate, but becauſe, if Statutes ſhould be rejected for the Reaſons you reject this, I fear a great part of our old Acts of Parliament, and even *Magna Charta* it ſelf muſt be expunged out of the Statute Book.

I come now to your third *Antient Precedent*, the Staple Act, made in the Second of *Henry* VI. *Cap.* 4. This is expired, ſo I find only the Title in the Statute Book, which is this: *All Merchandizes of the Staple paſſing out of* England, Wales, *and* Ireland, *ſhall be carried to* Calice, *as long as the Staple is at* Calice. The Reaſon you give, why this Law doth not bind *Ireland*, is ground-

ed on the Opinion of the Judges of *England*, whereof you give this account, p. 90. That by the Year Book of the Second of *Richard* III. it doth appear, that the Merchants of *Waterford* having Ship'd off some Wool, and consign'd it to *Sluce* in *Flanders*, the Ship by stress of Weather put into *Calice*, and Sir *Thomas Thwaits*, Treasurer there, seized the said Wool as forfeited, whereupon a Suit was commenced between the said Merchants and him, which was brought before all the Judges of *England* into the *Exchequer*-Chamber; where the Questions were two, one of which was, *Whither this Staple Act binds* Ireland? (I have Abbreviated what you Write, but I think I have done it fairly;) to which the Judges gave this Answer, p. 91. *Quod terra Hibernia inter se habent Parliament', & omni modo Cur prout in Angl. & per Idem Parliament' faciunt Leges, & mutant Leges, & non obligantur per Statuta in Anglia, quia non hic habent Milites Parliamenti*, &c. But in p. 92. you confess from the Year Books of 1 *Henry* 7. *That when the aforesaid Case came a second time under the Consideration of the Judges in the* Exchequer-*Chamber, we find it Reported thus*; Hussy *the Chief Justice said, That the Statutes made in* England *shall Bind those of* Ireland, *which was*

not

not much gainſaid by the other Judges, notwithſtanding that ſome of them were of a contrary Opinion the laſt Term in his Abſence. What a ſtrange Argument is this! The Judges, ſay you, gave their Opinion; who were thoſe Judges? You name only *Huſſy*, and he was againſt it: But you ſay all the Judges of *England* in the former Term; it could not be all, becauſe *Huſſy* was not there, and afterwards he gave his Opinion quite contrary. And as you confeſs, *p.* 92. all the Judges ſubmitted to it; ſo that here is the Judges Opinion at one time, againſt their Opinion at another; and will you bring this to overthrow the Authority of the Legiſlative Power of *England.*

But ſuppoſe *Huſſy* and the reſt of the Judges had agreed with the firſt Opinion, what would you draw from this? Have the Judges Power to queſtion the Parliament in the Exerciſe of their Legiſlative Authority? I know they are often adviſed with in the making of an Act, but when it is once paſt, I preſume their buſineſs is to give their Judgments according to it, or to Explain it where the Sence is doubtful; but not to go againſt the expreſs Words of an Act, much leſs to queſtion the Parliaments Power to make it.

Your ſecond Argument againſt this Statute's binding *Ireland*, is a Note in a Book made by *Brook* in Abridging this Caſe, *That* Ireland *is a Kingdom of it ſelf, and hath Parliaments of its own*, p. 92. Certainly you have very light Thoughts of Parliaments, if you think that Notes in Books ſhould abridge their Power.

The third is a Comment of your own on the whole, *p.* 93. wherein you draw a Compariſon of *Ireland* with *Scotland*, and conclude, *That by the ſame Argumentation* Scotland *it ſelf may be bound by Engliſh Laws.* I confeſs I would gladly pay a great Reſpect to your Perſon, but I would not willingly be drawn aſide by your Opinion, which I ſhould be, if I were thereby perſwaded that the Parliament of *England* have no more Power to make Laws to bind *Ireland*, than they have to bind *Scotland*; ſince it does appear, that they have done it from the firſt time of our Statutes being extant, and long before it can be rationally concluded there was a Parliament there: And yet I do not think they can make Laws to bind *Scotland*, becauſe they themſelves never pretended to any ſuch Power, ſave in the Caſe aforementioned, that ever I heard of. *England* and *Ireland* are not two diſtinct Kingdoms, as *England* and *Scotland* are: *Ireland* is a Kingdom dependant on

and

and annexed to the Imperial Crown of *England*, and the Parliament of *Ireland* is likewiſe ſubordinate to the Parliament of *England*, therefore the Laws made by the latter will bind the former: This I hope I have prov'd, notwithſtanding what you ſay, *That the contrary will be denied by no Man.*

As to what you ſay in relation to *France*, pag. 94. *Whether on this way of reaſoning, the People of* England *had not been ſubject to the King of* France, *had our Kings continued the Poſſeſſion of that Country, and there kept the Seat of the Monarchy.* I anſwer, No; for thoſe two Kingdoms had not been united as *England* and *Ireland* are, but as *England* and *Scotland*: However, you will find, That it was provided againſt by a Statute made 14 *Edw.* 3. *Anno* 1340. All I find of it in *Keeble* is this, (not being printed at large) *By a Statute it was ordained, That the Realm of* England, *and the People thereof, ſhall not be ſubject to the King or Kingdom of* France.

But you ſay, *pag.* 94. *That the Statute Laws of* England *have not received your Aſſent*; and you argue thence, *That the People of* England *will conſider whether they alſo are not the King's Subjects, and may therefore by this way of reaſoning, be bound by Laws which the King may aſſign them without their aſſent*, &c. I ſhall have occaſion

to ſpeak to this hereafter, ſo I ſhall for the preſent wave it here.

And now I find you have done with your three *Ancient Precedents*, the laſt of which was in the Second of *Henry* VI. and I have cited to you ſeveral other Statutes, made before that time, which do undoubtedly bind *Ireland*, being intended by the Parliament ſo to do, which I ſuppoſe you never ſaw, or would not cite, becauſe you had nothing to ſay againſt them.

I ſhall next follow you to your *Modern Inſtances*, which you likewiſe call *Modern Precedents*, *pag.* 98, *&* 99. And here you aſſert, *That before the Year* 1641. *there was no Statute made in* England, *introductory of a new Law that interfered with the Right which the People of* Ireland *have to make Laws for themſelves, except only thoſe which you have before-mentioned.*

Is this really ſo? What think you of thoſe I have before cited? I am very unwilling to ſwell this Anſwer, but I find my ſelf obliged to follow, wherever you will lead, even to 41.

Well then, beſides them, What think you of theſe ſeveral Statutes under-mentioned? *viz.*

32 *Hen.*8. *cap.* 24. Whereby the Knights of St. *John* of *Jeruſalem* in *Ireland* were diſſolved.

1 *Edw.*

1 *Edw. 6. cap.* 1. Whereby the Sacrament is directed to be adminiſtred in both Kinds unto the People in *Ireland.*

1 *Edw. 6. cap.* 2. Entituled an Act for Election of Biſhops, wherein *Ireland* is named.

1 *Eliz. cap.* 1. Whereby the Queen hath power given her to aſſign over to any Perſon power to exerciſe Eccleſiaſtical Authority in *Ireland.*

8 *Eliz. cap.* 3. Againſt exporting of Sheep from *Ireland.*

I think all theſe Laws bound *Ireland.* But what you mean by *Introductory of a new Law*, or *Interfering with the Right which the People of* Ireland *have to make Laws for themſelves*, I ſhall not labour to underſtand; theſe ſeem to be nice Quibbles: All I propoſed was, That the Parliament of *England* have, and always had, power to bind *Ireland* by their Statutes, which you have denied, and I hope I have proved.

And now I am come with you to 41, where you end your Aſſertion, and acknowledge, *That in that Year, and ſince, ſome Laws have been made in* England *to be of force in* Ireland; I take your own words, *p.* 99.

Theſe Acts, you ſay, are of 17 *Car.* 1. you do not name the Chapters, but they are 33, 34, 35, 37. which, being expired, are not to be found in the Statute-Book any more, ſave the Titles; therefore I muſt apply my ſelf to what you ſay of them, *p.* 100. *The Titles*, ſay you, *of theſe Acts we have in* Pulton's *Collection of Statutes*; *but with this remark, That they are made of no force by the Acts of Settlemement and Explanation paſſed in King* Charles *the Second's time in the Kingdom of* Ireland. And having gained this Advantage againſt the Parliament of *England*, you make uſe of it to the utmoſt; and preſently conclude, *That they plainly ſhew, that the Parliament of* Ireland *may Repeal an Act paſſed in* England *in relation to the Affairs of* Ireland. Sure I cannot think ſo; for if the Parliament of *Ireland* can Repeal any one Act made by the Parliament of *England*, they may Repeal all they make, which cannot be, except they have a Juriſdiction above them. For the Power which any one Body or Society of Men hath, to Repeal Laws made by another Body or Society, muſt proceed from a Superiority that Body or Society hath over the other whoſe Laws it doth Repeal: So that then (if what you ſay be true) it follows, That the Parliament of *Ireland* is Superiour to the Parliament of *England*; and then

then *we have brought our Hogs to a fair Market*; inſtead of the Parliament of *England*'s making Laws to bind *Ireland*, the Parliament of *Ireland* may make Laws to bind *England*, and likewiſe Repeal thoſe Laws they have already made.

You Gentlemen of *Ireland* are angry, That we will not give you leave to carry away our Trade, and therefore you now undertake to prove, That your Parliament can Repeal the Laws our Parliament makes. 'Tis very pretty truly; but I hope you will not put this your Power in Execution, and Repeal our Act of Navigation, or our Plantation Acts, and particularly that Act wherein is the Clauſe againſt landing Tobacco in *Ireland*: This I am fond of for a certain reaſon, therefore I beg your favour for it. We will part with our Woollen Bill, provided you will ſpare us the Acts already made: It will be a great loſs to the Kingdom of *England*, if you ſhould Repeal the Acts againſt planting Tabacco in *Ireland*, 'twould very much prejudice our Settlements in *Virginia*; a Trade, which beſides the great Revenues it brings to the Crown, (whereof you pay a part) does likewiſe encourage our Navigation, expends our Manufactures, and employs our Poor; ſo that all Perſons, from the King to the Beggar, reap advantage by it; I hope, I ſay, you will

will ſpare us theſe Acts; tho', I can't believe you would, did it lye in your power to take them from us; therefore I will pull up my Spirits, and enquire whether you have this Power you pretend to. The quotation you make is from *Pulton*; I have peruſed him, but he goes no farther then 4 *Car.* 1. and I can meet with no Body who hath ſeen any later Edition; therefore I ſuppoſe you muſt mean *Keeble*; if ſo, you have left out a great part of the Remark: For there I find it to be thus; *An Act for reducing the Rebels in* Ireland *to their Obedience to his Majeſty, and the Crown of* England, EXP. *See an Act for the Settlement of* Ireland, *paſſed in that Kingdom* Anno 14 Car. 2. 1662. *by which this, and the following Acts concerning* Ireland, *are, beſides their Expiration, of no force.*

Methinks I find my Spirits revived, it is not ſo bad as you repreſented it; *Keeble* ſaith the Act is *expired*, and then that is the reaſon why 'tis of no force: Every Body that underſtands Parliaments, knows that none of their Acts can remain in force longer then they intended them. But now I think of it, I was to blame to be ſo much diſturbed; For what if *Pulton* had ſaid ſo? Hath *Pulton* liberty to bound the Power of the Parliaments of *England* by Notes he ſhall print in his Statute Book? 'Twas my ex-

extraordinary love for Parliaments, not the weight of your Argument, that caſt me down at firſt.

Perhaps, Sir, you may think this way of arguing ſavours of Levity; I confeſs it does; but you may pleaſe likewiſe to conſider, That ſome People are not to be beat out of their groundleſs Fancies, but by ridiculing them: Would any prudent Man have thus wreſted the Sence of this Note, and then brought it as an Argument againſt the Authority of the Parliament of *England*? Surely by leaving out [EXP] you expected to have catcht Butterflies: I ſuſpect your candidneſs in thoſe other Quotations wherewith your Book abounds, (tho' many of them to little purpoſe) by your inſincerity in this.

And having thus got over this *Goliah* Argument of yours againſt the Power of our Engliſh Parliaments, I am the leſs careful to give Anſwer to the Objection you raiſe your ſelf *pag.* 101. viz. *It will be ſaid, That by thoſe Acts 'tis manifeſt that* England *did preſume they had ſuch a right to paſs Acts binding to* Ireland, *or elſe they had never done it.* I confeſs I am of that opinion, only I will not call it a *Preſumption*; I think it the juſt right of the Parliament of *England* to exercise a Legiſlative Power over the Kingdom of *Ireland*. And what Anſwer do you

you give to this Objection of your own framing? why truly, *The deplorable Condition of* Ireland *at that time, made it impoſſible for them to have a Parliament of their own: and it being abſolutely neceſſary that ſomething ſhould be done toward the ſuppreſſing the Violences then raging among them, the only means could then be practiſed, was for the Parliament of* England *to interpoſe, and do ſomething for their Relief and Safety.*

Was this the true Reaſon? Pray what could you expect from the Parliament of *England*, if *Ireland* was a ſeparate Kingdom, and they had not Power to make Laws to bind it? The Laws they made could then be of no more Service to them, then if they had been framed in the Parliament of *Scotland*, beſides the danger of ſuch a *Precedent*. But now I think of it, you were not afraid of that danger, the Parliament of *England* had made Laws for you five hundred years before; and therefore what they did at that time, was not (as you ſay) *to Interpoſe*, but to put in execution a Legiſlative Authority they had over you.

As to what paſt in *Cromwel*'s days, *p.*101, 102. I ſhall ſay little to it; 'tis not of much moment one way or the other.

And

And now I am come with you to King *Charles* the Second's days, and in it you ſay there were ſeveral Statutes made to bind *Ireland*, pag. 102.

The firſt you mention is, *An Act againſt importing Cattle from* Ireland, *or other Parts beyond the Seas*, 18 Car. 2. cap. 2. *made perpetual by two Acts in the ſame Reign. Theſe*, you ſay, *do not bind* Ireland: and I ſay ſo too; therefore I wonder you mention them.

The next you quote are, *The Acts againſt planting Tobacco in* England *and* Ireland, 12 *Car.* 2. *cap.* 34. 15 *Car.* 2. *cap.* 7. 22 & 23 *Car.* 2. *cap.* 26. theſe you ſay *do poſitively bind* Ireland, *pag.* 103. But you ſuggeſt, That as there was no need of making them, becauſe no Tobacco was ever planted in *Ireland*, (which perhaps there might have been, if thoſe Laws had not been made) ſo you imply, they are of no force in *Ireland* now made; for *you ſee no more reaſon for ſending of Force to trample down an Acre of Tobacco in* Ireland *by thoſe Statutes, then there would be for cutting down the Woods of* Shelela, *were there an Act made in* England *againſt your planting or having Timber.* Truly, Sir, I am of the ſame opinion; for if the Parliament of *England* had made a Law againſt planting and having Timber in *Ireland*, I do not ſee how you could have avoided

voided putting it in execution, any more then you could this: And here we are once more agreed.

The next you mention is the Navigation Act, *pag.* 103. (by which, I ſuppoſe, you mean the before-mentioned Act 22 & 23 *Car.* 2.) alſo the two Acts againſt exporting of Wool, 12 *Car.* 2. *cap.* 32. and 14 *Car.* 2. *cap.* 18. *pag.* 104. Theſe you confeſs do bind *Ireland*, and have received due obedience, but what right the Parliament of *England* had to make theſe Statutes you very much queſtion: you take them to be Innovations on you, as not being warranted by former Precedents; for that you ſay *before theſe Acts, (the eldeſt of which is not over Thirty ſeven years) there is not one poſitive full Precedent to be met with in all the Statute Books, of an Engliſh Act binding the Kingdom of* Ireland, *pag.* 104. Thence you argue, *p.* 105. *Shall Proceedings only of Thirty ſeven years ſtanding, be urged againſt a Nation, to deprive them of their Rights and Liberties which they enjoyed for Five hundred years before, and which were invaded without and againſt their Conſent, and from that day to this have been conſtantly complained of? Let any Engliſh Heart that ſtands ſo juſtly in vindication of his own Rights and Liberties, anſwer this Queſtion, and I have done.*

Well

Well Sir, I think now we are like to bring the Matter to a ſhort Iſſue, provided you will ſtand to what you ſay: for I confeſs I muſt agree with you in this ſo reaſonable a Challenge, *viz.* That if no *poſitive full Precedent* can be produced *of above Thirty ſeven years ſtanding*, whereby the Parliament of *England* have made Laws to bind *Ireland*, I think what they have lately done in that Matter to be an Invaſion on your Rights and Liberties.

And here, I believe I ſtate the queſtion much in your favour; for in your Appeal *to any Engliſh Heart that ſtands for his own Rights and Liberties*, you ſay, *that theſe Invaſions have been conſtantly complained of from that day to this*; which, ſhould I put you on the proof of, I am afraid you would be at a great loſs to do it. Pray, who made the Complaints? and to whom? for it muſt be done by your Parliament of *Ireland*, to the Parliament of *England*, elſe it cannot be ſuppoſed to be a Regular Complaint.

But we will take it as I ſtate it, and thereby put the *Onus probandi* on my ſelf, *That the Parliament of* England *did make poſitive full Laws to bind* Ireland *before the days of* Charles *the Second*, my work then is to produce them; and becauſe I will be fair with you in this Combat, I ſhall wave the three Statutes you have before excepted againſt,

againſt, (whether juſtly or not, I leave to the Reader on what I have ſaid before) *viz. Statutum Hiberniæ, Ordinatio pro Statu Hiberniæ, and the Staple Act* 2 Hen. 6. Theſe three, to pleaſe you, ſhall be diſmiſt the Ring.

Come then, let us begin; What think you of the *Statute of Merchants* 13 *Edw.* 1. *Anno* 1258, which is Four hundred and forty years ſince, wherein (as I have ſaid before) *Ireland* is mentioned, and bound? I hope you will allow this to be poſitive and full; and then I have only theſe two things to prove, firſt, That there is ſuch a Statute; and for this I refer you to *Keeble.* Secondly, That it is acknowledged here to be a Law; and this the conſtant practice of the Kingdom of *England* puts out of doubt, it being accounted one of our beſt Securities in matters of Dealing; and a Statute being made 21 *Jac.* 1. which, among other things makes it Felony without Benefit of the Clergy, to acknowledge a Statute in the name of another Perſon not privy or conſenting to it, alſo to procure it to be done: I have known two Perſons convicted thereon in this City, for acknowledging the above Statute of Merchants, and receive Sentence accordingly.

Now, Sir, I hope you will yield you are in the wrong.

But

But becauſe by the Teſtimony of two or three Witneſſes every thing ought to be tried, I will give you another, *viz.* that of 11 *Edw.* 3. *Anno* 1337. mentioned before, which is 360 years ſince, wherein *Ireland* is alſo mentioned, and poſitively bound.

I will add a third, which I have likewiſe mentioned before, *viz.* the *Statute Staple* 27 *Edw.*3. *Anno* 1353. which is Three hundred and forty years ſince: in the firſt Chapter whereof, *the Staple Towns are ſettled for* Ireland, and in almoſt every Chapter, *Ireland* is mentioned under ſome name or other, and poſitively bound.

I could produce many more, but having had occaſion to mention them before, I will not ſwell my Anſwer by repetition.

I hope now, Sir, I have fully proved all I undertook, and you propoſed; and that you will acknowledge your ſelf to be in an error, and give up the Cauſe, for I am weary of following as you lead, becauſe I am forced thus to repeat the ſame things again. But I muſt go on to the end of your Book; perhaps you have ſomething more material to offer then I have yet ſeen.

But before I proceed, I will mention one Statute made in the Reign of King *Charles* the Second, which you omit, and I will put you in mind of, 'twas in his Twelfth year, *cap.* 7. The Title (which is all I find of it in the Statute Book) is, *An Act for re-*

ſtoring unto James *Marqueſs of* Ormond *all his Honours, Mannors, Lands, and Tenements in* Ireland, *whereof he was in poſſeſſion on the 23d day of* October 1641. *or at any time ſince*; which being as it were a private Act, is not printed at large. Now I am apt to think that the Marqueſs of *Ormond* thought the Parliament of *England* had a Legiſlative Power over *Ireland*, elſe he was very much to blame to be at the Charge and Trouble of getting this Act paſt: And do you think that a Perſon of his Honour and Intereſt in *Ireland*, had any deſign to betray and give up the Liberties thereof?

I come now with you to the Reign of his preſent Majeſty; which you call a happy Government; and I think that we in *England* have juſt cauſe to call it ſo too, and to bleſs God for it, as I doubt not but we do: But I am ſure 'tis more eſpecially happy to the Proteſtant Intereſt in *Ireland*, elſe I fear their Lands had had other Owners before this time, though, perhaps under a former Reign, the Powers of an Iriſh Parliament might have been aſſerted, in order to clip the Wings of the Parliament of *England*, till both had been levelled to the deſpotick power of the Prince.

But however, as happy as this Government is, I find you have ſomething to ſay againſt it: The Parliament in this happy

Reign

Reign have made Laws to bind *Ireland*, which is a thing you complain of, and more eſpecially, *becauſe it was done at a time, when the Subjects of* England *have more ſtrenuouſly then ever aſſerted their own Rights, and the Liberty of Parliaments*, pag. 105.

Why then, Sir, you have no reaſon to complain, for this was one way by which they aſſerted their own Rights, and the Liberty of Parliaments, though this was not the only way: They aſſerted it likewiſe in an Act made *Anno* 1 *Gul. & Mar. cap.* 2. intituled, *An Act declaring the Rights and Liberties of the Subjects, and ſettling the Succeſſion of the Crown.* And in an Act made *Anno* 6 *Gul. & Mar. cap.* 2. intituled, *An Act for the frequent meeting and calling of Parliaments.* But as great Aſſerters as they were of the Liberty of Parliaments, I do not ſee one word mentioned in that Act, relating to the Parliament of *Ireland*; from whence I infer, That they thought there was but one Parliament for all thoſe Kingdoms, Lands, and Countries which were annexed to the Imperial Crown of *England*, elſe certainly that Parliament, which thought they had Power to make Laws to bind *Ireland*, and who you confeſs *made them out of good will and kindneſs to you, under thoſe Miſeries that* Ireland *then ſuffer'd*, pag. 106. would have taken ſome care for that King-

dom, in a Matter of such Weight, even for many of those Reasons whereon that Statute is grounded, had they not thought *Ireland* subject to their own Legislative Power.

But let us come to the Statutes which you mention to be made in this Reign, wherein *Ireland* is named.

The first is *pag.* 107. An Act made 1 *Gul. & Mar. cap.* 29. intituled, *An Act for Relief of the Protestant Irish Clergy.* This, you say, was obtained by the distressed Protestant Clergy of *Ireland*, who were driven into *England*, and by accepting Ecclesiastical Promotions here, had forfeited those they had before in *Ireland*, by a Statute in that Kingdom 17 & 18 *Car.* 2. To free themselves from the Penalty of this Act, they thought it necessary to procure the fore-mentioned Statute, which the Parliament of *England*, I perceive, kindly granted them; and they thought it sufficient to continue them their Rights to their Promotions in *Ireland*, notwithstanding that Irish Act. So that here you see in Fact the Opinion of the Clergy of *Ireland*, touching the Powers in dispute between us, notwithstanding any Glos you may think fit to put on it.

But now the Act is before me, let us see what were the Thoughts of the Parliament of *England* when they made that Law, whether

ther they thought it would be ſo precarious, as to be in the diſcretion of the Parliament of *Ireland* to allow it; becauſe you ſeem to infer that it was ſo, *pag.* 107. when you ſay, *The Proteſtant Iriſh Clergy thought they could not be too ſecure in avoiding the Penalty of the Iriſh Act, and therefore applyed themſelves to the Parliament of* England, *and obtained this Act.* No ſure, the Parliament thought it binding, elſe it had argued Levity in them, to make a Law which they thought they wanted Power to ſee put in Execution. But let the Law it ſelf ſpeak the Sence of the Legiſlators: I muſt be forced to tranſcribe the words of the Statute, which are theſe, *That no Eccleſiaſtical Perſon, of what dignity or degree ſoever, promoted or beneficed in the Kingdom of* Ireland, *and who hath been enforced to forſake the ſaid Kingdom, or hath ſo done for fear of the Iriſh Rebels, and being of the Proteſtant Religion, who are or ſhall be preſented, promoted, collated, inſtituted, or inducted to any Church or Benefice with Cure, or without Cure, or to any Eccleſiaſtical Promotion whatſoever in the Kingdom of* England, *ſhall thereby, or by acceptance thereof, loſe any Eccleſiaſtical Benefice or Promotion in the ſaid Kingdom of* Ireland; *but that he, and every of them, be continued and enabled ſtill to hold and enjoy his Benefice and Promotion in the ſaid Kingdom*

of Ireland, *of what dignity or degree ſoever the ſame was.* You ſee here, the Parliament takes no notice of any Law made in *Ireland*, and conſequently of no Parliament there, at leaſt, which ſhould ſtand in the way of their Authority. 'Tis true, there follows theſe words, *Any Law, Statute, or Canon notwithſtanding*, I hope you do not take this to be meant of Laws, Statutes, and Canons made in *Ireland*; 'tis not probable it ſhould; but if you will have it ſo, then you ſee that the Parliament of *England* thought this Law ſtrong enough to command Obedience in *Ireland*, although contradictory to the Laws made by the Parliament there.

The next Statute you mention is, *pag.* 108. *cap.* 34. of the ſame Seſſions, intituled, *An Act for prohibiting all Trade and Commerce with* France. By this you ſay *Ireland* is bound. However, you have found a Salvo for this alſo; *'Twas*, ſay you, *during the heat of the War in that Kingdom, when 'twas impoſſible to have a Regular Parliament therein, all being in the hands of the Iriſh Papiſts.* What then? ſhould the Parliament of *England* therefore aſſume a Power which did not belong to them? why did they not make Laws to bind *Flanders*, where the War was hotter then in *Ireland*, and the Subjects of the King of *Spain* under the Irregular Oppreſſion of the French King? But had not the Parliament

ment of *England* exerciſed this Power before? you your ſelf ſay they had in *Charles* the Second's days, *p.* 102. So then, this was not the Reaſon, though you are pleaſed to ſhadow it over with this Vail, it was, becauſe they thought *Ireland* to be under their Juriſdiction, and that this Act would be neceſſary for the Publick Weal of the Kingdom of *England*, and the Lands belonging to it.

But miſtruſting the weight of this Reaſon, you proceed, and ſay *pag.* 108. *Neither do we complain of it, as hindring us from correſponding with the King's Enemies, for it is the duty of all good Subjects to abſtain from that.* What then? are Statute Laws ſuch Cobweb things, as to be binding only when no Complaints are made againſt them? This is a worſe Reaſon then the other; I admit the Proteſtant Gentlemen of *Ireland* to be good Subjects; but what if ſome ill Men amongſt you ſhould have complained of this Law, and broke through it for their private advantage, had it not force enough to have cauſed it's Penalties to be put in Execution againſt them? Surely the Parliament thought it had, elſe they did ill to name *Ireland* in the Body of that Statute; and their Reaſon for it doubtleſs was, That they thought *Ireland* ſubject to their Authority, as a Kingdom depending on *England*, which

they did not take *Scotland* to be, elſe in all probability they would have extended that Act thither alſo. 'Twas not out of love to the French King that they left *Scotland* out.

Pleaſe to note, That this Law likewiſe binds *Jerſey*, *Garnſey*, *Alderney*, *Sark*, and *Iſle of Man*; the laſt was once a Kingdom of it ſelf, ſeparate from *England*, and in the hands of the *Scots*, and of the *Norwegians*.

The next you mention is, *pag.* 109. An Act made 1 *Gul. & Mar. Seſſ.* 2. *cap.* 9. intituled, *An Act for the better Security and Relief of his Majeſty's Proteſtant Subjects of Ireland.* And what ſay you to this? Why, *pag.*108. you tell us, *That the baniſhed Laity of* Ireland, *obſerving the Clergy thus careful to ſecure their Properties, and provide for the worſt as well as they could in that Juncture, when no other Means could be taken by a Regular Parliament in* Ireland; *they thought it likewiſe adviſable for them to do ſomething in Relation to their Concerns. And accordingly they obtained this Act.* Very careful indeed they were, to apply themſelves for Paper Laws to the Parliament of *England*, if they thought they had no Power to make them. A Man would have ſuppoſed, that the Parliament of *Ireland*, in their firſt Seſſions after the Reduction of that Kingdom, would have deprived the Clergy-men concerned in procuring the other Act of all their Eccleſiaſtical Preferments in *Ireland*, for the

wrong

wrong ſtep they made, becauſe 'twas they began the Dance for the Laity, who only followed their Example.

And here you have the Opinion of the Laity of *Ireland*, as you had before that of the Clergy; and by your Writing I ſuppoſe you were one of them.

But you ſtill harp on the ſame String, 'twas becauſe you could have no *Regular Parliament in* Ireland; though I perceive you had a farther drift in obtaining this Act, then the Clergy had in procuring the other; for you proceed, p. 109. *We concluded with our ſelves, that when we had obtain'd theſe Acts from the Parliament in* England, *we had gone a great way in ſecuring the like Acts to be paſſed in a Regular Parliament in* Ireland, *whenever it ſhould pleaſe God to Re-eſtabliſh us in our own Country.* Was this really your Reaſon? Why then did not you ſet it forth in your Petition to the Parliament of *England*, and endeavour with them to have got it mentioned in their Act, which might alſo have been a *ſalvo* to the Priviledge of the Parliament of *Ireland* hereafter? But I cannot think it was ſo, becauſe you very well knew by a long Experience, that Acts of Parliament made in *England*, wanted not the Authority of the Parliament of *Ireland* to confirm them, and conſequently you needed it not in this:

Nor

Nor was there any reaſon to fear this Act's being pleaded againſt you as a Precedent of your Submiſſion, and abſolute acquieſcence in the Juriſdiction of the Parliaments of *England* over the Kingdom of *Ireland*, which you complain of *p.* 110. for I ſhould take the Authority of the Parliament of *England* to be very young, if it depended thereon.

But now you have done with this Act, give me leave to take it up: You ſay, *That therein King* James *his Iriſh Parliament at* Dublin, *and all Acts and Attainders done by them, are declared void*, p. 109. I find then, that King *James* had a Parliament in *Ireland*, which Parliament muſt be lawfully Aſſembled, if *Ireland* is a ſeparate Kingdom, and not ſubject to the Statute-Laws of *England*: For, though he had abdicated the Kingdom of *England*, and that it was ſo declared by the Parliament here, who had ſettled the Crown on King *William* and Queen *Mary*; yet ſuppoſing *Ireland* to be a ſeparate Kingdom, that Declaration would no more have reached it, than it did *Scotland*, till the ſame was done by the Parliament there: Hence then it follows, either that you did tacitely confeſs *Ireland* to be no ſeparate Kingdom, or that the Parliament of *England* had Power to declare void an Iriſh Parliament, and all

Acts

Acts and Attainders done by them; for you ſay, *That you obtained this Act for your better Security and Relief.* Pleaſe to conſider whether I am not in the right as to this Matter.

The next Act you mention is, p. 111. viz. *An Act for Abrogating the Oath of Supremacy in* Ireland, *and appointing other Oaths*, 3. & 4. *Gul. & Mar.* This you ſay binds *Ireland*, and to this and the forementioned Acts, you ſay, you conformed your ſelves, *becauſe they were in your Favour, and you hope that a voluntary Submiſſion to the Commands of another who hath no Juriſdiction over you* (as you ſuppoſe the Parliament of *England* hath not) *becauſe they are pleaſing to you, ſhall give him no Authority to command you ever after as he pleaſes*, p. 112. If this were the Caſe, I confeſs you have reaſon on your ſide, but ſeeing it is not, but that the Parliament of *England* hath made Laws to bind *Ireland* ever ſince it was united to the Imperial Crown thereof, I hope the Obedience you paid to theſe Statutes, ſhall not be called a *Voluntary Submiſſion*, which you have Power to throw off when you pleaſe, except you are of Opinion with what follows, *viz. That Subjects ought not to obey longer than they ſee it convenient for them, unleſs they be forced to it, which Force they are to free themſelves from*

as ſoon as they can: I am apt to think the Parliament of *England* will not like this Principle, and I do not ſee how the Parliament of *Ireland* can neither; for if this be allowed, *pari ratione*, you may throw off their Juriſdiction alſo when you pleaſe.

But I will return to this laſt Act, which you ſay, *p.* 111. was made 3 *&* 4 *Gul. & Mar.* It hath ſlipt my Collection, ſo I can obſerve nothing from it, ſave what you ſay your ſelf, *viz. That the Parliament convened at* Dublin, Anno 1692. *under Lord* Sidney, *and that likewiſe* Anno 1695, *under Lord* Caple, *paid an entire Obedience to it.* From whence I conclude, that thoſe two Parliaments thought it their Duty ſo to do, elſe it would ſeem very imprudent in them, becauſe they could not but conclude, that it would be interpreted an Acknowledgment of the Juriſdiction of the Parliament of *England* over them; not that I urge it againſt them for a Precedent in favour of the Parliament of *England*, 'twill imply a weakneſs in their Authority if they wanted it, which they do not by your own Confeſſion; for you ſay, p. 64. *That ſeveral Engliſh Acts of Parliament were allowed in the Parliament of* Ireland *held* 10 Hen. 7. tho' I think that allowance utterly unneceſſary, and rather an Incroachment on the Juriſdiction of the Parliament of *England.*

But

But why did the Parliament of *England*, *Anno* 3 & 4 *Gul.* & *Mar.* make this Law, at a time when the Parliament of *Ireland* was ſo near ſitting, which you ſay was *Anno* 1692? Truly, though I cannot give their Reaſons for it, and it will not be good Manners for me to ask them, yet I will adventure my Thought, which is, That they knew they had Power to make it, and that the Parliament of *Ireland*, whenever they met, was bound to pay Obedience to it.

And now it comes into my mind, let me ask you Gentlemen of *Ireland* this Queſtion; Did you think King *William* and Queen *Mary* King and Queen of *Ireland*, before the Calling of that Parliament, or did you not? if you did not, how came that Parliament to meet by Vertue of their Writs? For if *Ireland* be an Independant Kingdom, the Declaration of the Parliament of *England* (as I ſaid before) was nothing to you; but if you did, it muſt be by Vertue of the Act of Recognition made in the Parliament of *England*; if ſo, then that Act alſo reached *Ireland*, though you do not mention it; and then it follows, that here is a *New Original Compact*, whereby *Ireland* is become a *Dependant* on the Kingdom of *England*, and your Parliament on the Parliament thereof.

I do

I do not see how you will get over this Argument, though there is no need to make use of it in favour of the Parliament of *England*; yet I may with much more Reason draw this Conclusion from hence, then you can from the supposed Donation of King *Henry* II. to his Son *John*, that *Ireland* was then made a seperate Kingdom.

But I go forwards; *p.* 113. you come to your Arguments drawn from the Liberty of the People, and tell us, *That the Right of being subject only to such Laws to which Men give their own Consent, is so inherent to all Mankind, and founded on such immutable Laws of Nature and Reason, that 'tis not to be alienated, or given up, by any Body of Men whatsoever.* I confess my self intirely of this Opinion, and I cannot think the People of *Ireland* ought to be deprived of that, which I would not lose my self, much less can I Argue for it: So that you see, I am no Friend to Slavery, or any thing that looks like it; when I cannot defend my Argument without subjecting *Ireland* to this State, I will give up the Gantlet.

But let us rightly distinguish in this Matter; and since we agree in the main, let us consider what you mean by giving Consent to a Law: This, I presume, must be done, either by a Man's self, or by his chosen Representative; if so, then we will consider

ſider how far this will affect the People of *Ireland*, with reſpect to the Matter we are now upon: For I believe you will grant, that if a Man denies or neglects to qualifie himſelf for ſuch an Election, or if qualified refuſes to be preſent thereat, or removes himſelf at ſuch a diſtance that he cannot if he would, this Man is not denied his Conſent, nor is his Liberty broken in upon, though he be afterwards bound up by Laws made by a Parliament, in the Election of whoſe Members he actually gave no Vote; the Laws governing Elections being made by a common Conſent, though they may ſeem to affect ſome Perſons ſeverely, yet being thought convenient for the whole Community, ought to be ſubmitted to: And as for the other two things, being Acts of a Man's own, his Choice is ſuppoſed to go along with them; If this be not allowed, there never was any Election free. For ſuppoſe I will not make my ſelf a Freeholder for a County, Citizen or Burgeſs for a Corporation, muſt the Laws already made be Cancelled to gratify my Humour? Or ſuppoſe that I go on a Voyage to Sea, or ſettle my ſelf in the Plantations Abroad, ſhall not I be bound by the Statute-Laws of *England*, becauſe I was not actually preſent at the Election of the Members that made them? If this be admitted, few Men will

care

care to be there. 'Tis a pleaſant way of Arguing, till it comes to be cloſely applied: Now there is no Engliſh Subject in *Ireland*, but may put himſelf, if he pleaſe, under one of theſe Qualifications, that is, he is capacitated to do it as he is an Engliſhman, and this is what his Anceſtors did before him, to whoſe Privileges he ſucceeds, and muſt not expect, that new Itinerant Courts of Parliament ſhall be erected to follow him, where-ever he thinks fit to remove: If this be allowed to the Gentlemen of *Ireland*, why ſhould it be denied to thoſe who ſettled in our Plantations in *America*, they all removed out of *England* on the ſame Principles of advancing their own private Fortunes; and what a Jumble of Laws ſhould we then have? Not but that I think it highly reaſonable, they ſhould all have power to make private Laws, for the better governing their ſeveral Colonies; and this they do, by Repreſentatives choſen by themſelves, which in the *Leſſer Plantations* they call *Aſſemblies*, but in *Ireland* a *Parliament*; which Aſſemblies, and the Laws they make, ought ſtill to be in Submiſſion to the Superior Power of the Parliament of *England*.

But if I do not miſtake, you have ſomewhere own'd that *Ireland* did once ſend Repreſentatives to the Parliament of *England*: I muſt

I muſt turn back, and I find it in *p.* 95. where you ſay, *There have been other Statutes or Ordinances made in* England *for* Ireland, *which may reaſonably be of Force here, becauſe they were made and aſſented to by our own Repreſentatives.* And you go on to ſhew from the White Book in the *Exchequer* in *Dublin*, the form of a Writ ſent by King *Edward* I. to his Chancellor of *Ireland*, wherein he mentions, *Quædam Statuta per nos de aſſenſu Prelatorum Comitum Baronum & Communitatis Regni noſtri* Hiberniæ, *nuper apud* Lincoln *& quædam alia Statuta poſt modum apud Eborum facta.* Theſe you ſuppoſe to be Statutes made, either at the Requeſt of the States of *Ireland*, or by the Aſſent of your own Repreſentatives, the Lords Spiritual and Temporal and Commons of *Ireland*; and from this you Argue, p. 96. *That the King and Parliament of* England *would not Enact Laws to bind* Ireland, *without the Concurrence of the Repreſentatives of this Kingdom.*

Well, Sir, put what Sence you pleaſe on it, this ſhews plainly that you then came to *England* for your Laws, and that the Parliament of *England* had a Legiſlative Juriſdiction over you in thoſe early days; ſo that all makes the worſe for your Argument: How then came you to be free from it? For either you caſt off the Parliament

of *England*, or the Parliament of *England* caſt off you; 'tis not the latter, for the Parliament is ſtill careful for your Welfare, and makes good Laws for your better Government; and I ſee no Power you had to caſt them off, except you will at the ſame time ſay, you are not Engliſh-Men, which I hope you will not; but I find you are like froward Children, who will not eat their Bread and Butter unleſs it be Sugar'd; nothing will pleaſe you, unleſs the Parliament of *England* will reſign their Legiſlative Authority, which they ſhall never have my Conſent to, except I ſee better Reaſons for it than any you have yet produced.

But you proceed, p. 96. *Formerly when* Ireland *was but thinly Peopled, and the* Engliſh *Laws not fully currant in all parts of the Kingdom, 'tis probable, that then they could not frequently Aſſemble with conveniency or ſafety to make Laws, in their own Parliaments at Home; and therefore, during the Heats of Rebellions, or Confuſion of the Times, they were forc'd to Enact Laws in* England. Truely 'tis a very probable Story you tell us; I take *Bevis* of *Southampton*, or *Guy* of *Warwick*, to be altogether as probable. Come let us examine it; In the former part of your Book you lay it down as undeniable, That *Henry* II. in the Parliament at *Oxford*, made a Donation of *Ireland* to his Son

John,

John, as a ſeparate Kingdom; and as ſuch Parliaments were there ſettled (I muſt confeſs I think 'tis all of a piece) now, you tell us, that becauſe the People of *Ireland* could not Aſſemble *with Conveniency and Safety*, to make Laws, during the *Heats of Rebellions and Confuſions of Times* there, they came to *England* to make them here; juſt like the Birds, that remove at their Pleaſure from colder Climates, to make their Neſts in Warmer. But you prove nothing of this, nor is it at all likely: Pray when were theſe Heats of Rebellions? not in the Days of *Henry* II. for you ſay, *p.* 8. that *Anno* 1172, *Ireland* was quietly ſurrendred to him by *Richard Strongbow* at *Dublin*; afterwards, *p.* 30. you ſay, he ſettled a *modus tenendi Parliam. p.* 39. you ſay, that five Years after his return from thence, he created his Younger Son, *John*, King of *Ireland*, who went thither, and that the Iriſh Nobility and Gentry immediately repaired to him: 'Tis true, you ſay there was ſome *Difference* between them about their *long rude Beards*, but I hope you will not call that a *Rebellion:* p. 40. you imply to us, that King *John* made another Voyage thither, which *How* and *Baker* ſay was the 31 *Hen.* 2. being eight Years after: You proceed alſo and tell us, That King *John* govern'd them Two and twenty Years during

ring the Lives of his Father *Henry* II. and his Brother *Richard* I. in which time he made them divers Grants and Charters; ſo that hitherto all was well in *Ireland*: p. 44. you ſay, That on the Death of King *Richard* I. King *John*, in the Twelfth Year of his Reign, went again into *Ireland*, *Anno* 1210, and then it was that *Mat. Paris* ſaith the 20 *Reguli* came to him to *Dublin*, and did him Homage: *p.* 45. you ſay, That *Henry* III. came to the Crown *Anno* 1216, and the ſame Year ſent over the Charter from *Briſtol* the 12*th* of *November*: And in *p.* 46. you ſay, He ſent them another in the *February* following from *Glouceſter*: *p.* 52. you ſay, That *Henry* III. in the Twelfth Year of his Reign, ſent over a Writ to *Hugo de Burgh* to Summon the *States* of *Ireland*. In all this time we hear nothing of *Wars*, *Tumults*, *Heats*, *or Rebellions*, but quite contrary: For *p.* 49, and 50. you ſet forth a Writ (which you have from Mr. *Petit*) or rather a Letter written by King *Henry* III's Queen, *Anno* 38. of his Reign, wherein ſhe deſires his Subjects of *Ireland* to aſſiſt the King with Men and Money, to defend his Land of *Vaſcony*, which was then Invaded by the King of *Caſtile*. Thus far I quote you from your own Book, and now you tell us, *p.* 96. That the People of *Ireland* could not Aſ-

ſemble

ſemble with conveniency, to make Laws at Home, by reaſon of *Heats of Rebellions, or Confuſion of Times*; and that this cauſed them to come to *England* to do it, as appears by the Writ you mention, *p.* 95. which was in the Ninth Year of *Edward* I. who ſucceeded his Father *Henry* III. Really Sir, you have given me ſo much trouble to run over your Book again, to ſhew how inconſiſtent you are in your Diſcourſe about this Matter, that I could almoſt be angry with you: But I am willing to take this pains, not to convince you that you are in an Error, I imagine that will be labour loſt; a Gentleman of your Parts muſt needs know it already; but to make it plain, leſt any Body elſe ſhould be drawn aſide by what you write.

Well then, on the Credit of this Writ I will grant you, that *Ireland* came to *England* for Laws in the Ninth of *Edward* I. And then I hope you will not oppoſe this *Ancient Precedent*, becauſe it is of your own producing.

But to get clear of this you tell us, *p.* 96. *That theſe Laws were made by your own Repreſentatives*: And to prove that this was ſo in the Reign of *Edward* III. (for you ſay *'its plain 'twas ſo in* Edward *I.'s time*) you tell us, *There were Knights, Citizens, and Burgeſſes elected in the Shires, Cities, and Buroughs of* Ireland, *to ſerve in Parliament*

in England, *and ſo ſerved accordingly.* And to prove this you tell us, *p.* 97. *That amongſt the Records of the* Tower *of* London, Rot. Clauſ. 50 Edw. 3. Parl. 2. Membr. 23. *We find a Writ from the King at* Weſtminſter, *directed to* James Butler, *Lord Juſtice of* Ireland, *and to* R. *Archbiſhop of* Dublin, *his Chancellor, requiring them to iſſue Writs under the Great Seal of* Ireland, *to the ſeveral Counties, Cities, and Boroughs, for ſatisfying the Expences of the Men of that Land, who laſt came over to ſerve in Parliament in* England. *And in another Roll the* 50 Edw. 3. Memb. 19. *on complaint to the King by* John Draper, *who was choſen Burgeſs of* Cork *by Writ, and ſerved in the Parliament of* England, *and yet was denied his Expences by ſome of the Citizens, care was taken to reimburſe him.* Pray what uſe will you make of theſe Records? to prove that the Kingdom of *Ireland* is not ſubject to the Legiſlative Power of the Parliament of *England?* I think you have brought the Matter home, and have miſtaken the ſide; for inſtead of proving that it is not, you have proved poſitively that it is; and particularly that from the Ninth of *Edward* the Firſt, to the Fiftieth of *Edward* the Third, the Repreſentatives of *Ireland* came over to ſit in the Parliament of *England*, and how long before, or how long after they did ſo, I cannot tell. The Writ you mention of *Edward* I.

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hath reference to Statutes made before that time at *Lincoln* and *York*, which I judge muſt be in the Days of *Henry* II. *Richard* I. or King *John*, becauſe I do not find that any Parliament was held in either of theſe Places, from the beginning of our Statute-Books; and then where is your ſeparate Kingdom of *Ireland* under King *John*? And why have you ſo often aſſerted, That there was never any Law made in *England* to bind *Ireland*, till the Modern Inſtances you mention? Pray what means all the Clamour you have made againſt our late Kings, and the Parliaments of *England*, for infringing your Liberties, and breaking through the very deſign of ſetling Communities, and putting you in a worſe Condition than you were in the ſtate of Nature? You are very much beholding to the ingenious Mr. *Lock*, for the fineneſs of your Argument, about the State of Conqueſt, *&c.* in the former part of your Book, which I do not at all blame you for, becauſe I think no Man can handle a Subject ſmoothly, whereon he hath treated, that doth not follow his Copy; but I blame you for not applying thoſe excellent Arguments more fitly.

But to return to the Matter; P. 58. You confeſſed, there was no Parliament in *Ireland* before King *Henry* III.'s time, and you have not any where ſhewn, that it

was ſettled there during his Reign; and now you acknowledge that *Ireland* ſent Repreſentatives to ſit in the Parliament of *England* in the Reigns of *Edward* I. *Edw.* II. and *Edward* III. his Succeſſors, where Laws were made to bind it. Pray then, why do you exclaim againſt their putting this Power in Execution ſtill? To this you ſay, *p.* 97. *It muſt be allowed that the People of* Ireland *ought to have their Repreſentatives in the Parliament of* England. *And this you believe they would be willing enough to embrace, but this is a Happineſs you cannot hope for.* I have before told you that you are repreſented there already; but you are willing ſome Repreſentatives ſhould come over from *Ireland* to ſit there, you ſay they did ſo once, and you are willing they ſhould do it again; pray why did you not continue that great *Happineſs* you now ſo much prize? To this you Anſwer, *p.* 98. *This ſending of Repreſentatives out of* Ireland *to the Parliament in* England, *on ſome occaſions, was found in proceſs of time to be very troubleſome and inconvenient.* I cannot but obſerve what a *Hodge-podge* you would make by the wrong Inferences you endeavour to draw from every thing, only becauſe you would cloud the Truth; you allow you once ſent Repreſentatives to the Parliament here, but you would now have this to be *only upon ſome occaſions:* I hope it was not *on occa-*

occaſion of Wars and Tumults during the proſperous Reigns of *Edw.* I. and *Edw.* III. If it was, you do not tell us what Wars and Tumults they were: 'Tis much that *Edward* III. who extended his Arms to *France* and *Scotland*, could not keep in quiet his *County of Ireland*, as it is called in the Statute 1 *Hen.* 6. quoted before; and now you tell us the Reaſon why it was then called ſo, *viz.* becauſe they formerly ſent Repreſentatives to ſerve in Parliament here. If this was not the Reaſon why they ſent them *only on ſome occaſions* (and you give no other) then, I am apt to think, either that they ſent none at all, or that they ſent them to every Parliament; for I can't believe, that Laws were made in *England* and in *Ireland* at the ſame time, by two Parliaments that ſtood on equal footing one with the other: This is not probable; for what if their Laws ſhould claſh, the Parliament of *England* would not ſubmit to have their Laws repealed by the Parliament of *Ireland*; that were unjuſt, becauſe the ſame Power that made them was not at the repealing of them: *Ireland* had Repreſentatives in the Parliament of *England*, but *England* had not in the Parliament of *Ireland*: Nor is it probable, That the Parliament of *Ireland* would have ſtoopt to the Parliament of *England*, if they had any colourable Argument of their ſide; for you

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ſee how loath they are to do it now, though they have none at all; at leaſt, you, who have undertaken this Conteſt in their favour, have produced none; but you have fairly quitted the Field, and confeſt, That *Ireland* did formerly, for 100 years together, ſend their Repreſentatives to the Parliament of *England*.

Well then, to return to this *Happineſs*, why did not *Ireland* continue it? You tell us, *pag.* 98. They found it *very troubleſome and inconvenient*. What makes you then to deſire it again? I do not ſee how it will be leſs *troubleſome* now; and I aſſure you, it will be attended with as many *inconveniencies*, if not to you in *Ireland*, yet to us in *England*; and I hope you will conſider your Neighbours inconveniencies, as well as your own.

But as *inconvenient and troubleſome* as it is, you are willing to have this *Happineſs* reſtored. Here the nature of the Argument is altered; for now it is not, Whether the Parliament of *England* have Power to make Laws to bind *Ireland*, and whether what they have done in that Matter for 500 years paſt, hath been done *de jure*; but whether *Ireland* ſhall be reſtored to its former Priviledges of ſending Repreſentatives to ſit in the Parliament of *England*? I confeſs, I have no Authority to treat with you about this

this Affair; it is reſerved for a higher Power to determine.

But ſuppoſe you are denied to have this *Happineſs* reſtored, the queſtion then will be, Whether you have any wrong done you? If I was to be Judge, I ſhould give it againſt you: For, ſeeing you have given up your Rights ſo many hundred years ſince, and ſubmitted your ſelves to your Engliſh Repreſentatives, without ſending any from *Ireland*, I do not ſee how you can inſiſt on it now: And in this I believe you have *Neighbours Fair*; for I doubt not, there are many Corporations, both in *England* and *Wales*, who either did ſend more Members to Parliament in former days, or might have done it, had not the Charge or Trouble put them on ſeeking to be excuſed. Particularly, I obſerve a Clauſe to this purpoſe in the Charter granted to the City of *Briſtol* by King *Edward* III. when he made it a County, whereof I have before me an Engliſh Copy, which runs thus; *And moreover, we have granted for us and our Heirs to the ſaid Burgeſſes and their Heirs and Succeſſors for ever, that the ſaid Town of* Briſtol, *by any means ſhall not be charged to ſend to the Parliament of Us or our Heirs, but only two Men, as heretofore hath been accuſtomed; the which two Men, as well Knights of the County of* Briſtol, *as Burgeſſes of the Town and Borough*

rough of Briſtol, *for the ſame Town and Borough ſhall be bound to make anſwer.* Which ſhews, that this was then granted as a favour to that City, at their requeſt, to avoid the trouble and charge of ſending two Knights, as well as two Burgeſſes, to repreſent them in Parliament, which if they would now retrieve, they cannot. And this was about the ſame time that you ſay, *Ireland* being diſcouraged by the Troubles and Inconveniencies that attended it, forbore to ſend Repreſentatives to ſit in Parliament in *England.*

But whatever was the Reaſon that made them do this, I cannot agree with what you ſay *pag.* 98. *This we may preſume was the reaſon, that afterwards, when times were more ſettled, we fell again into our old Track, and regular courſe of Parliaments in our own Country:* Pray what Regular Courſe of Parliaments do you mean? you have not yet proved that you ever had any, but rather confeſſed the contrary; you ſay you ſent Repreſentatives to ſit in the Parliament of *England*, But what then? Does it therefore follow that you might leave that off, and ſet up Parliaments of your own at your pleaſure? No ſure; you might quit your Priviledges of being part of the Parliament of *England*, but it doth not therefore follow, that you had Power to eſtabliſh a Parliament in *Ireland*, independent on the Parliament of *England*; no more then if the Peo-

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ple of *Cornwal*, being unwilling to put themſelves to the trouble of attending the Parliament at *Weſtminſter*, ſhould therefore without farther warrant, erect one of their own nearer home, and then expect it ſhould be clothed with full Power, and be Superiour to that of *Weſtminſter*, with relation to what concerns the County of *Cornwal*: For to talk of your *Old Track and Regular courſe of Parliaments*, after what you have ſaid on this Matter, is a Jeſt, and deſerves no anſwer.

We are now come to your fifth Particular, *pag.* 115. *The Opinions of the Learned in the Laws relating to this Matter.* The firſt you mention is the Lord Chief Juſtice *Cook*'s in his Seventh Report in *Calvin*'s Caſe, *pag.* 116. and he is againſt you: But you blame him for his unfaithful broken Citations, (which I agree with you to be an ill way of deceiving a Reader into a good opinion of an Argument, but muſt tell you, that you have been too frequently guilty of the ſame Fault in this Book) yet I cannot ſee how the Lord Chief Juſtice *Cook* hath been unfaithful in this his Citation, for I take the whole ſence of the Tranſcript you mention, to be included therein: You ſay, That after he had declared *Ireland* to be a Dominion ſeparate and divided from *England*, for which he quotes out of the *Year-Books* the Caſe of the Merchants of *Waterford*, and the proceedings thereon, which you have mentioned

pag.

pag. 91. He concludes, *Noſtra Statuta non ligant eos*, &c. *yet with this Parentheſis (which is to be underſtood unleſs they be eſpecially named)* What you ſay againſt this his Opinion, *p.* 117. *That it is down-right Magiſterial, and point blank againſt the irrefragable Reaſon of the Book he quotes*, I think will appear to be very ſevere, if the Point he was then upon be conſidered; which was this, as I find it in his Abridgment, *pag.* 271. *R. C. by his Guardian bringeth an Aſſize, the Defendants ſay the Plaintiff ought not to be anſwered, quia eſt Aliagena, natus* 5 *Novemb. An. Dom. Regis Angliæ*, &c. *tertio, apud* E. *infra Regnum Scotiæ, ac infra ligeanciam Domini Regis Regni ſui* S. *ac extra ligeanciam Regni ſui Angl.* Here, the Debate being about a *Poſt natus* in *Scotland*, Sir *Edward Cook* brought the Quotation you mention, for the ſake of the laſt words thereof, *ſed perſonæ eorum ſunt ſubjecti Regis ſicut Inhabitantes in Caleſia, Gaſconia & Guyan:* who had been ever accounted Denizens; and makes the Note you mention, *viz. (which is to be underſtood unleſs they be eſpecially named)* on the other part of that quotation, *Noſtra Statuta non ligant*, &c. becauſe he would not be thought of Opinion with the former Judges, *Et non obligantur per Statuta in Anglia*, which you mention *pag.* 91. And this having no relation to the Caſe he was then upon, he thought it needleſs to give the Reaſons for this his diſſent

ſent in Opinion from them, which makes you call him *Magiſterial*, &c.

But afterwards, *pag.* 117. you ſay, that in another place of the ſame Report he gives this colour of Reaſon for his former Aſſertion, *That though* Ireland *be a diſtinct Dominion from* England, *yet the Title thereof being by Conqueſt, the ſame by Judgment of Law might by expreſs words be bound by the Parliaments of* England. From this you would raiſe an Argument, *p.* 118. between the Opinion given by the Judges in the *Exchequer Chamber*, pag. 91. and the now Opinion of the L. Chief Juſtice *Cook*: But I ſhall leave you to reconcile thoſe venerable Judges, and proceed to my own Argument, becauſe I think I have already ſpoken to every thing you therein mention; only I can't but ſtand amazed at your —— what ſhall I call it! in this Aſſertion, *pag.* 118. *I challenge any Man to ſhew me, that any one before him, or any one ſince, but from him, hath vended this Doctrine*: when your ſelf had told us before, *pag.* 92. *That the Lord Chief Juſtice* Huſſy, *and the other Judges were of the ſame Opinion, when the Caſe of the Merchants of* Waterford (which is the ſame you now quote) *was argued the ſecond time in the* Exchequer Chamber: And in *pag.* 80. you tell us, *This was a Doctrine firſt broached directly by* Will. Huſſy *Lord Chief Juſtice of the* King's Bench *in* England, *in the firſt year of*

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Henry. VII. *and of late revived by the Lord Chief Juſtice* Cook. I wonder how you can make ſuch bold Challenges, which need no farther trouble then peruſing your own Book, to anſwer. I hope I have now vindicated my Lord Chief Juſtice *Cook*, *whoſe Name*, you ſay, *pag.* 116. *is of great veneration with the Gentlemen of the Long Robe*; if ſo, I may likewiſe hope, they will give me thanks for doing it, ſo many years after his death.

The next Caſe you mention is that of *Pilkinton*, 20 Hen. 6. *pag.* 122. This you ſay is for you: It is too long to tranſcribe, but the Subſtance of it is this; There were Letters Patents granted by the King to *A.* for an Office in *Ireland*, formerly granted to *P.* by the ſame King's Letters Patents; whereupon *P.* brings a *Scire Facias* againſt *A.* to ſhew cauſe why his Letters Patents ſhould not be repealed: *A.* pleads, That *Ireland* had time out of mind been a Land ſeparate and diſtinct from *England*, was govern'd by its own Cuſtoms, had a Parliament, and made Statutes, and by one of thoſe Statutes *P.* had forfeited his Office: Hereupon *P.* demur'd in Law, and it was debated by five of the Judges of *England*, who differ'd in their Opinions about it. Well, what will you infer from this? doth any one doubt whether *Ireland* hath a Parliament, and Cuſtoms among themſelves that govern them? Did the

the Juriſdiction of the Parliament of *England* come any way to be called in queſtion here? if not, 'tis nothing to our Matter. Yes, you ſay, *pag.* 124. *Two of the Judges ſaid, That if a Tenth or a Fifteenth be granted the King by the Parliament of* England, *that ſhall not bind* Ireland, *&c.* Perhaps it may not; 'tis according as the Act is worded; we ſee our ordinary Acts for raiſing Taxes are not extended to *Ireland*: But doth this ſhow that the Parliament of *England* hath not Power to make Laws which ſhall bind *Ireland?* Beſides, ſuppoſe two Judges of five had poſitively ſaid they could not, was their Opinion to be taken againſt that of the Parliament of *England*, ſhewn by their conſtant practice for Five hundred years? I profeſs I cannot ſee how this Caſe, reaches the Matter we are upon.

As to the Merchants of *Waterford*'s Caſe, *pag.* 125. it hath been ſpoken to before, ſo I ſhall paſs it by now.

The next is the Prior of *Lanthonies* in *Wales*, 5 *Hen.* 6. This you ſay is for you, *pag.* 125. I think 'tis not; but it lyes on me to give my Reaſons, therefore I will abreviate it; *The Prior of* Lanthony *brought an Action in the* Common Pleas *of* Ireland *againſt the Prior of* Mollingar; *Judgment went againſt the Prior of* M. *who brought a Writ of Error in the* King's Bench *of* Ireland,

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where the Judgment was affirmed: He then appeals to the Parliament of Ireland, *who revers'd both Judgments. The Prior of* L. *removes all into the* King's Bench *in* England, *but the* King's Bench *refuſed to intermeddle, having no Power over what had paſſed in the Parliament of* Ireland, *he then appealed to the Parliament of* England, *where*, you ſay, *it doth not appear by the Parliament Roll that any thing was done on this Appeal, ſave receiving the Petition.* Well, what would you draw from this? I think it proves nothing to our Matter; if it doth, the Concluſion muſt be againſt you: For it appears by this quotation, That the Prior of *L.* two hundred and ſeventy years ſince, thought that an Appeal lay from the Parliament of *Ireland* to the Parliament of *England*: and it doth likewiſe appear, That the Parliament of *England* received his Petition: But as to your Inference againſt the Power of the Parliament of *England*, *becauſe nothing was done therein*, it may as well be concluded, That they cannot judge Appeals brought before them by a Writ of Error out of the *King's Bench* of *England*, becauſe many times no Proceedings follow thereon, which every Body knows may be let fall after the Petition is received, at the Pleaſure of the Parties concerned.

As to what you ſay of the Civil and Eccleſiaſtical State of *Ireland*, p. 127,128,129. I think I have given a full Anſwer to it already, ſo ſhall not repeat: I will only add, That 'tis a wrong method, to draw Arguments againſt the Power of the Parliament of *England*, from Acts made by the Parliament of *Ireland*: No doubt the Titles of thoſe Kings and Queens you mention, had been good to *Ireland*, though not recognized in the Parliament there. And as for the Church of *Ireland*, its ſubjection to the Parliament of *England*, doth not at all ſhow that *Holy Church is not free*; for the Freedom there mentioned, doth not imply an exemption from the Parliaments Power, no more then the Grants and Charters made to the Church of *England*, diſcharge her from the like Subjection; and yet ſhe is declared free by *Magna Charta*: and I hope you do not believe, that the Kings of *England* gave greater Immunities to the Church of *Ireland*, then they did to the Church of *England*.

The next Caſe you mention is, *pag.* 129. 14 *Edw.* 2. The Parliament at *Weſtminſter* you ſay moved the King, *That the Iriſh Natives of* Ireland *might enjoy the Laws of* England *concerning Life and Member, in as large and ample manner as the Engliſh of* Ireland *enjoyed the ſame.* Whence you conclude,

p. 130. *That the Parliament of* England *did not take upon them to have any Juriſdiction in* Ireland, *for then they would have made a Law for* Ireland *to this effect.* A ſtrange Inference! Is it not known that they did make Laws to bind *Ireland* long before *Edward* the Second's time? You your ſelf confeſs, *p.* 96. *That* Ireland *ſent Repreſentatives to ſit in Parliament here in the Reign of* Edward *the Firſt.* Beſides the Quibble you make on the word [*moved*] which is only a mannerly Expreſſion uſed by your Author between the King and his Parliament; ſuppoſe he had ſaid they *repreſented* it to the King, had this altered the matter? But you ſay, *They made no Law to this effect themſelves*; pray what need was there of a new Law, when you have ſo often told us before, That *by the original Compact ſettled in* Ireland, *on their firſt Submiſſion to the Kings of* England, *they were to be governed by the Laws of* England, whereof this was part? In your former Caſe of Coparcencers, *p.* 87. you ſay, *The Juſtice of* Ireland *diſpatch'd ſom Knights to the King in* England *to bring Certificate what was the Common Law of* England *in that Caſe*; here *the Parliament of* England *ſignifie to the King what was the Rights of the Iriſh Natives of* Ireland; all the difference is, the former might not be ſtated before, and therefore required an Act; but this

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you ſay was, and therefore required none.

But ſtill methinks there is ſomething more under this Head; *The Parliament*, ſay you, *moved the King, that the Iriſh Natives of* Ireland *might enjoy*, &c. which ſhews, they had a Juriſdiction there, elſe they would never have concerned themſelves, where they thought they had nothing to do: It likewiſe ſhews that the original Compact above-mentioned, was made with their advice and conſent, otherwiſe, why ſhould they concern themſelves to ſee it put in Execution?

I come now to your next Caſe, *pag.* 130. *viz. A Writ of Error's lying from the* King's Bench *of* England, *on a Judgment given in the* King's Bench *in* Ireland; *from whence*, you ſay, *it is inſiſted on, that there is a ſubordination of the Parliament of* Ireland, *to the Parliament of* England, pag. 131. *This you acknowledge to have been the Conſtant practice:* But you ſay, firſt, *This is grounded on an Act of Parliament made in* Ireland, *which*, it ſeems, *is* alſo unluckily *loſt*, How then do you know there was ſuch an Act? and if you do not know it, how come you to offer your bare Surmiſes as Arguments againſt the Power of the Parliament of *England?* But ſecondly, you ſay, *on thoſe Removals by Writs of Error, the Judges in* England *always judge according to the Laws and*

Cuſtoms of Ireland. You mention ſeveral Caſes, wherein the Errors aſſigned were *words uſed in* Ireland, *but not in* England; What is all this to the purpoſe? if things are called by one name in *Yorkſhire*, and another in *Cornwal*, ſhall they not paſs in *Yorkſhire* by the names uſed there, and in *Cornwal* by the names whereby they are commonly called there? The Concluſion you draw from hence, *pag.* 133. ſeems to me very ſtrange, *viz. Hence 'tis manifeſt that the Juriſdictions of the* King's Bench *in* England, *over a Judgment in the* King's Bench *of* Ireland, *does not proceed from any ſubordination of one Kingdom to the other.* Pray, from whence is this made manifeſt to any Body elſe beſides your ſelf? Does it appear, that becauſe Writs of Error have been brought from the *King's Bench* in *England*, on Judgments given in the *King's Bench* in *Ireland*, that therefore Writs of Error do not lye from the one Bench to the other? and if they do, does not this ſhow a Subordination of the one Court to the other? and conſequently of the one Kingdom to the other? But you ſay, *This Subordination of the Court of* King's Bench *in* Ireland, *doth not proceed from a Subordination of the Kingdom, but from ſome other reaſon, which you will endeavour to make out.* I am ſure your third Reaſon, *pag.* 133, 134. *viz. the Caſe of Coparceners*

parceners cannot be it; I have ſpoken to it before, all I ſhall now add is, That you muſt not bring Arguments againſt the Power of the Parliament of *England*, drawn from *reaſonable Imaginations*, as you call them: I cannot *imagine* what *Reaſons* you can offer from *the Stories* you tell there, either againſt the Authority of the *King's Bench*, or more eſpecially againſt that of the Parliament of *England*.

All that follows, *p.* 134, 135. is only *perhaps*, and *it may be*, which I am not bound to anſwer, but with the ſame ſtile, *perhaps*, and *it may not be*: What you alledge of certainty is, *That Writs of Error have lain from the* King's Bench *of* England *to the* King's Bench *of* Ireland *time out of mind*; which ſeems to me proof enough for it: and if you have no better Argument againſt the Juriſdiction of that Court then this, I am afraid you will loſe your Labour with any Engliſh Reader.

But you proceed to your fourth Reaſon, *pag.* 136. and tell us, *That when a Writ of Error is returned into the* King's Bench *of* England, *ſuit is made to the King only; the Matter lyes altogether before him; and the Party complaining applys to no part of the Political Government of* England *for redreſs, but to the King of* Ireland *only, who is King in* England. Alſo *p.* 137. you ſay, *For the*

People of Ireland *are the Subjects of the King to whom they Appeal.* And after that, you proceed thus, *I question not but in former times, when these Courts were first erected,* &c. *that if the King had travelled into* Ireland, *and the Court had followed him thither, erroneous Judgments might have been removed from* England, *before him into his Court in* Ireland. What strange Suppositions are here! have you ever seen any Precedent of this Nature? If yea, why did you not produce it? if no, why did you suppose it? But admit you had produc'd such a Precedent, what would it have signified, more than to have prov'd, that the Judges of *England* going over with the King into *Ireland*, do become there the Supream Court of Judicature? How will your Judges in *Ireland* take this at your Hands? Whether it be so or no, I will not undertake to confute you: But as to your former Arguments, *That Writs of Error lie before the King, not the Court*; and *Application is made to the King of* Ireland, *who is in* England; they are pretty ludicrous Distinctions, and if allowed, I cannot see why the Judges of *England* may not extend their Jurisdictions to *Scotland* on the same Arguments: I have so much Honour for them, that as I was willing to grant it them in *Ireland*, as full as you pleased, so I shall be loth to argue against extending their

Power

Power to *Scotland* alſo, if they can find any Precedents to warrant it: If this be Law, I think they have been aſleep in the Four laſt Reigns; 'tis true, they were Reigns of Trouble, but now we have Peace, they will have time to look into that Matter, on this Hint you have given them; I perceive you are fully perſwaded of it, if they are as eaſily perſwaded too, the Buſineſs is done: But I believe the Judges of the *King's-Bench* in *England*, will not call Cauſes before them out of *Scotland*, *becauſe the King of* England *is King of* Scotland, on your Opinion that they may do it, be you as fully perſwaded of this Matter as you will.

But whither are we going from our Argument? I undertook to prove, *That the Parliament of* England *can rightfully make Laws to bind* Ireland, and you have put me upon proving, *That the* King's-Bench *in* England *hath a Juriſdiction over the* King's-Bench *in* Ireland: I confeſs you have made this Task eaſie to me; for, beſides the weakneſs of your Arguments to the contrary, you grant it, *p.* 139. but you do it with great Caution, and deſire that no Advantage may be taken thereby, to prove *the Parliament of* Ireland *Subordinate to the Parliament of* England; this I think you needed not have feared, for I know no Body would ever have raiſed it as an Argument againſt

against you, or will use it now you have brought it. The Parliament of *England*'s Power over *Ireland* was long before the Dates of the Writs of Error you mention, *which were all in the Days of King* Charles I. 'Tis true, you imply there were some much earlier; but all we have said of this Matter seems to me but Labour lost, and nothing to the Argument we are upon; nor can I conclude with you, *p.* 140. from the *Prior of Lanthony*'s Case, that the Judgement of the Parliament of *Ireland*, was never questioned in the Parliament of *England*; that very Case seems to me to show the contrary, which I leave to the Reader to judge.

As for the English Act of Parliament, *p.* 140, 141. made the 25th of *Henry* VIII. I cannot see what use you make of that neither, against the Jurisdiction of the Parliament that made it. You say, *It was received in* Ireland, *and confirmed in Parliament there, by the Act of Faculties made the 28th Year of the same King's Reign:* It may be so, and what then? All I can say to it is, that we have trifled a long time on things spoken to before, therefore let us proceed to something new, if you have it to offer. I very well know, Sir, that it becomes me to treat you with Respect, both as you are a Gentleman and a Stranger to me; but I cannot but admire at the Pains you

you take, of quoting ſo many Caſes, and then applying them ſo ill; I confeſs I can hardly pardon you this Fault: Your Book ſeems to be written by different Hands; I am afraid this latter part is added without your conſent, by ſuch as deſign'd Miſchief to you, or the Matter you are handling.

P. 142. You come to your Sixth Article propoſed, *viz. The Reaſons and Arguments that may be farther offer'd on one Side and t'other in this Debate.*

The Firſt is *Conqueſt*; the Second *Purchaſe*, by ſundry Expences to reduce Rebellions, and carry on Wars in *Ireland*, both formerly and of late; the Third is *Strength and Power*, which you ſay *England* makes uſe of to make Laws for ſecuring its Trade from *Ireland*, and maintaining thoſe Laws when made; theſe you deſcant on, *p.* 142, 143, 144, 145, 146, 147, but I am tired, and ſhall not give my ſelf the Trouble to conſider, what Reaſons may ariſe from theſe, or any of them, for the Parliament of *England's* putting this their Power in Execution: I never propoſed either of them as a reaſon from whence it ſprung, which is the Argument we are upon.

The laſt thing you mention, is, *Ireland's* being look'd on as a *Colony from* England, *p.* 148, 149. and therefore ſubject to its Laws:

Laws: This you think a very extravagant Opinion; I am ſure none of the Arguments you there bring againſt it make it appear to be ſo; however, I ſhall not wander again upon this Subject, having, as I hope, ſufficiently proved, That the Parliament of *England* hath made Laws to bind *Ireland*, ever ſince it hath been in our Poſſeſſion. You ſay your ſelf, *p.* 39. That *the Parliament at* Oxford *in King* Henry *II's days, made the King's Son* John *King thereof*; which ſhews they had then a power over it, and it doth not appear by their Actions ſince, that they ever gave it up; and can the Authority of the Parliament of *England* over *Ireland* be better ſet forth, than by ſaying they ſettled the Sovereignty over it in whom they pleaſed: 'Tis true you do not prove it, nor is it at all probable, yet the Argument is good againſt your ſelf, to ſhew they had then a power to do it.

As for the remaining part of your Book, from *p.* 149. to the end, where you endeavour to ſet forth *Reaſons drawn from the Juſtneſs of your Cauſe, why the Parliament of* England *ſhould not put this Power in Execution*, (which they have had and exerciſed from the beginning over *Ireland*) it doth not become me to give Anſwer to it: The great Wiſdom of the Nation knows when 'tis convenient for them to do it, and when

when not, they have not made me Arbitrator in that Affair, but are themſelves the proper Judges. However, I hope I may adventure to ſay, I have proved in the foregoing Diſcourſe, *That it is not againſt the Rights of Mankind*, nor *againſt the Common Law of* England, nor *againſt the Statute-Law of* England, *nor againſt the ſeveral Conceſſions made to* Ireland, nor *is it inconſiſtent with the Regalities of a Kingdom* (depending on *England* as *Ireland* doth,) nor *againſt the King's Prerogative*, nor *the Practice of former Ages*, nor *the Reſolution of the Judges*, and that it *doth not deſtroy Property*, nor *create Confuſion*; Theſe are the Heads you again repeat, but have been anſwer'd already.

Therefore on what hath been ſaid, I cannot conclude with you, *That the exerciſe of this Legiſlative Power over* Ireland, which you call *Aſſumed* in your laſt Pages, 171, 172, 173, 174. *will be any ways inconvenient for the Kingdom of* England; but ſeeing you are pleaſed to ſubmit this to the *Wiſe Aſſembly of Engliſh Senators*, I humbly leave it to them alſo, whether, on the Reaſons you have offered, they will deſiſt for the future. But I cannot admit of your Compariſon with the *breaking of the Edict of* Nants *by the French King*; it does not appear to me, you were ever exempted from

their

their Jurisdiction; nor can I believe the Gentlemen of *Ireland* will be drawn aside by your Clamours, to call this *an Invasion on their Rights and Liberties*, or be perswaded thereby *to shake off their Allegiance to the King of* England; which you groundlesly suggest. No doubt the Parliament of *Ireland* is a Prudent Assembly, and know well enough how to make Laws for the Interest of that Kingdom, which therefore you think *cannot be in the least prejudicial to this*. Yet you see *Poyning's Act*, 10 *Hen.* 7. which you mention, *p.* 173. is still kept on foot, as a light to their feet; perhaps if this good Guide was laid aside, they might be apt to stray, which I do not find the Crown of *England* willing to give up; much less do I believe that the Parliament of *England* will surrender *their Antient undoubted Power to make Laws to bind that Kingdom*. However, let not my Opinion discourage your humble Application to them, which will be a better way than disputing their Power.

And thus I have made an Essay at answering your Book, which boldly strikes at the *Power of our English Parliaments*, a Constitution I much honour, and though they do not stand in need of such weak Pens as mine, yet I have made use of my *Sling and Stone*, till a better *Champion* undertakes their Cause;

Cauſe; I have only engaged you with your own Weapons, and thrown back thoſe Darts on your ſelf, which you caſt at them: I confeſs my own weakneſs to handle a Controverſie of this nature; which I had never undertaken, had I not thought the weakneſs of your Arguments had given me an Incouragement. It is reported of the Son of *Cræſus*, though Dumb before, yet when he ſaw his Father like to be ſlain, his dutiful Affection being ſtronger then the Cords that bound his Tongue, cryed out, *Noli occidere Patrem.* You complain often in this Diſcourſe, of the *breaking in on the Liberties* of Ireland, for which I ſee no reaſon, and I hope it will not appear ſo to indifferent Men, when the thing is rightly conſidered. I have given you my Thoughts on this Subject, but whether they will make a better Impreſſion on you, then your Arguments have made on me, I cannot foreſee; therefore ſhall leave what hath been ſaid on both ſides, to be ſcan'd by the Judicious Reader.

Briſtol, June 16.
1698.

John Cary.